

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF		
<u>PERRY HALL UNITED METHODIST CHURCH, INC. - PETITIONER FOR A ZONING RECLASSIFICATION ON PROPERTY</u>	*	COUNTY BOARD OF APPEALS
LOCATED ON THE SOUTHEAST SIDE	*	OF
BELAIR ROAD, 485' +/- SOUTHWEST OF	*	BALTIMORE COUNTY
CENTERLINE HORN AVENUE		
(9515 BELAIR ROAD)	*	CASE NO. R-97-467
11th ELECTION DISTRICT		(Cycle I, 1997)
5TH COUNCILMANIC DISTRICT	*	

* * * * *

O P I N I O N

This case comes before the County Board of Appeals of Baltimore County in response to a request by the Petitioner that the subject property, located at 9515 Belair Road, situated in the Fifth Councilmanic District, be rezoned from its present zoning classification of D.R. 3.5 to R.O. (Residential Office).

The subject parcel is located in the mixed used corridor of Belair Road and is included in the "Belair Road Corridor Study" that was compiled by the Baltimore County Office of Planning. This document is dated May 1995 and was developed for use by the Baltimore County Council in their deliberations relative to the 1996 Comprehensive Zoning Map Process. Both parties in this case concede that, under Baltimore County Code, Section 2-356(k), the issue of substantial change does not apply, as it has been less than 1 year since the adoption of the 1996 Comprehensive Zoning Maps. Both parties thus agree that, in order to succeed, Petitioner must establish "error" in the last classification of the property.

In accordance with Section 2-356(i) of the Baltimore County Code, a public hearing was conducted by the Board on October 9,

1997, with public deliberation on October 15, 1997.

At the hearing, Petitioner was represented by Francis X. Borgerding, Jr., Esquire. Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel, also participated in these proceedings.

The subject property is described as a .36-acre parcel of land zoned D.R. 3.5 and improved with a two-story brick building used as a parsonage by the Church. Kenneth J. Wells, an expert land surveyor for the Petitioner, testified as to the surrounding community, describing Belair Road as a major thoroughfare and noting that properties north and south of the subject property are zoned commercial. He testified to traffic measurements of 36,000 trips per day occurring thereon and that widening is now underway. He testified that Horn Avenue, to the rear of the Church, is a narrow two-way street which serves the residential neighborhoods behind the Church. As well, it generates local traffic which cuts through Church property.

Mr. Wells indicated that the Maryland State Department of Transportation had no objection to a change in zoning for the subject property, but would require an access permit.

On cross-examination by Ms. Demilio, Mr. Wells acknowledged that the Belair Road Corridor Study and the Master Plan were available to the County Council during the rezoning process, including page 14 of the Study (Petitioner's Exhibit 7) which, in relevant part, provides as follows:

#2) Residentially zoned sites that are no longer considered suitable for residential uses but are located adjacent to residential areas should be considered for R-O-A, R-O, OR-2, C.B., and B.L.R. zoning.

#5) Consideration should be given to rezoning undeveloped and developed parcels zoned B.L., B.M., and B.R. which are located adjacent to residential area. However, no commercially developed parcel should be rezoned to a classification which does not permit the existing use.

Kenneth H. Mason, a member of the Church since 1963, also testified on behalf of the Petitioner. He provided a history of the Church and parsonage, as well as a description of the parsonage's present use and improvements made to the property, including speed bumps on their parking lot to deter an increase in traffic generated from, among other things, changes made in signage on Horn Avenue with the construction of a carwash facility.

On cross-examination, Mr. Mason conceded that the Church community knew of the carwash facility, expansion of a car repair shop, and zoning change of a neighboring property before 1995.

Also testifying was Pastor Robert Clipp, who has lived in the parsonage since 1993, who supported the Church seeking a change in the zoning as he does not feel this property is conducive to residential living, now that he and his wife have young children.

Pastor Clipp admitted on cross-examination that there was no reason the Church could not sell the parsonage as a residential property.

The first witness for the Office of People's Counsel was Jeffrey Long of the Office of Planning. Mr. Long has been with that office for 18-1/2 years and presently serves as the

coordinator for cycle zoning. He noted that both the Office of Planning and the Planning Board concluded that the appropriate zoning was D.R. 3.5, and the County Council thus made no mistake in its recommendation to retain the D.R. 3.5 zoning for this property.

Mr. Long reviewed the Comprehensive Zoning Map Process, and observed that this issue was not raised during the 1996 Comprehensive Zoning Map Process. He described the Belair Road corridor as a mixed-use corridor and referred to the recommended zoning guidelines outlined in the Belair Road Corridor Study. He testified that the 1996 Comprehensive Zoning Map Process was in compliance with the recommendations of the Belair Road Corridor Study, and further stated that consideration of a change in zoning would turn largely on whether the property appeared as a viable residence. Since the property appears as a well-maintained residence, he concluded there would be no reason to consider a change in zoning. Mr. Long further noted that granting an R.O. classification in that instance would allow the Petitioner to request any use under that classification since there was no documented site plan submitted. Some uses allowed by special exception would be incompatible with the surrounding community. He discussed the use of a less intensive zoning classification, R.O.A., and then pointed out that the current residential zoning would support other uses. He testified as to other examples around the County where the parsonage exists with an adjacent church dwelling and other office /commercial uses.

This Board's authority to change the zoning classification of property is set out in the Baltimore County Code, Section 2-356, subsection (j). The Board of Appeals in this instance must find that the last classification of the property was established in error.

From the testimony and evidence presented, the Board finds that the Petitioner has not succeeded in rebutting the presumption that the County Council did review this property thoroughly as part of the comprehensive map process. Specifically, the Belair Road Corridor Study was available and provided specific recommendations relative to changes in zoning. At the time the comprehensive map process occurred, the property was being used as a residence, as it had been since its construction, and remained well-maintained and attractive. The recommended zoning guidelines of the Belair Road Corridor Study, page 14, item #1, read: "Sites that are presently zoned residential (no R-O-A or R-O) and are still viable for their existing use or for future residential development should not be rezoned to a nonresidential classification."

Upon review of the testimony, evidence and exhibits entered in this case, the Board accordingly finds that the Petition for Reclassification of the subject property from D.R. 3.5 to R.O. should be denied at this time, and will so order.

O R D E R

IT IS THEREFORE, this 4th day of December, 1997 by the
County Board of Appeals of Baltimore County


ORDERED that the Petition for Reclassification from D.R. 3.5 to R.O. be and is hereby DENIED.

Any petition for judicial review from this decision must be made in accordance with Rules 7-201 through 7-210 of the Maryland Rules of Procedure.


COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY



Kristine K. Howanski, Chairman



Donna M. Felling



Margaret Worrall



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

December 4, 1997

Francis X. Borgerding, Jr., Esquire
Suite 600
Mercantile-Towson Building
409 Washington Avenue
Towson, MD 21204

RE: Case No. R-97-467 /Perry Hall United
Methodist Church, Inc. -Petitioner

Dear Mr. Borgerding:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Kathleen C. Bianco for".

Kathleen C. Bianco
Administrator

Enclosure

cc: William L. Diller, Chairman
Board of Trustees /Perry Hall
United Methodist Church
William Edwards /Perry Hall UMC
Kenneth J. Wells
James Earl Kraft
People's Counsel for Baltimore County
Pat Keller
Jeffrey Long
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney



RE: PETITION FOR ZONING RECLASSIFICATION *	BEFORE THE COUNTY
9515 Belair Road, SE/S Belair Road,	
485' +/- SW of c/l Horn Avenue *	BOARD OF APPEALS OF
11th Election District, 5th Councilmanic *	BALTIMORE COUNTY
Perry Hall United Methodist Church, Inc.	
Petitioner *	Case No. R-97-467

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED
COUNTY BOARD OF APPEALS
97 AUG 19 PM 1:41

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of August, 1997, a copy of the foregoing Entry of Appearance was mailed to Francis X. Borgerding, Jr., Esq., 409 Washington Avenue, Suite 600, Towson, MD 21204, attorney for Petitioner.

Peter Max Zimmerman

PETER MAX ZIMMERMAN



Petition for Reclassification

to the Board of Appeals of Baltimore County

for the Property at 9515 Belair Rd., Baltimore, MD 21236

This Petition shall be filed with the **Department of Permits & Development Management**

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be reclassified, pursuant to the Zoning Law

of Baltimore County, from an D.R. 3.5 zone to an R.O. zone, for the reasons given in the attached ~~and (2) for a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for~~

and (3) for the reasons given in the attached statement a variance from the following sections of the Zoning Regulations of Baltimore County:

1. Mistake in the property's zoning;
2. Change in the character of the property's neighborhood; and
3. For such other and further reasons as will be presented at the hearing of this matter.

Property is to be posted and advertised as prescribed by Zoning Regulations.

1, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zip Code

Attorney for Petitioner:

Francis X. Borgerding, Jr.

(Type or Print Name)

Signature

409 Washington Ave., Ste. 600 296-6820

Address Phone No.

Towson MD 21204

City State Zip Code

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s): Perry Hall United Methodist Church, Inc.

By: William L. Diller, Chairman of the Board of
(Type or Print Name) Trustees

Signature

William Edwards - TRUSTEE

(Type or Print Name)

William Edwards

Signature

9515 Belair Road

256-6479

Address

Phone No.

Baltimore, MD

21236

City

State

Zip Code

Name, address and phone number of legal owner, contract purchaser or representative to be contacted.

Francis X. Borgerding, Jr.

409 Washington Avenue, Suite 600

Towson, MD 21204

296-6820

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

unavailable for Hearing the following dates _____

Next TWO Months _____

ALL _____ OTHER _____

REVIEWED BY: JCM DATE 2-27-97

2.97-467

BRIEF SUPPORTING RECLASSIFICATION

The subject property is located along Belair Road, U.S. Route 1, a major Baltimore County roadway bounded by numerous commercial uses. Belair Road, in and around the area of the subject property, is being widened further diminishing feasibility of the subject property's residential zoning. Additionally, the subject property is bounded by R.O. and B.L. property to the southwest and BL property to the northeast with other commercial zoning on Belair Road in the immediate area, including B.M., B.L.R. and R.O. In light of the above and other factors relating to the subject property which will be brought out at the hearing concerning this matter Petitioner feels that considering the purposes of the zoning regulations and maps, including but not limited to all of the following population trends; availability and adequacy of present and proposed transportation facilities, water supply facilities, sewerage, solid waste disposal facilities, schools, recreational facilities, and other public facilities, compatability of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area consistency of the current prospective classifications with the master plan, the County plan for sewer and water supply facilities and the capital program that the subject property's present D.R. 3.5 zoning is in error.

Respectfully submitted,



FRANCIS X. BORGERDING, JR.

409 Washington Avenue, Suite 600

Towson, Maryland 21204

(410) 296-6820

Attorney for Petitioner, Perry Hall
United Methodist Church

2.97.467

Kenneth J. Wells, Inc.
Land Surveying and Site Planning

Telephone: (410) 592-8800
Telecopier: (410) 817-4329

7403 New Cut Road
Kingsville, Md. 21087-1132

2/24/97

**ZONING DESCRIPTION
PERRY HALL METHODIST CHURCH PROPERTY
9515 BELAIR ROAD
BALTIMORE COUNTY
MARYLAND**

Beginning for the same at a point on the southeast side of Belair Road approximately 458 feet south from the intersection of the southeast side of Belair Road and the centerline of Horn Avenue; thence bounding on the southeast side of Belair Road 1) South 49 degrees 31 minutes 00 seconds West 75.00 feet; thence leaving the aforementioned road 2) South 40 degrees 29 minutes 00 seconds East 235.75 feet; thence 3) North 17 degrees 25 minutes 00 seconds East 91.49 feet; thence 4) North 41 degrees 15 minutes 00 seconds West 187.15 feet to the place of beginning. Containing 0.37 acres of land more or less.



BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 028528

R-97-467 #1

DATE 2-27-97 ACCOUNT 001-6181 #3

AMOUNT \$ 535.00

RECEIVED FROM: PERRY HALL UNITED METHODIST Church

FOR: #076-RECLASS

9515 BEL 03A91#03#MICHRC #535.00
BMD003#02-27-97

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

VALIDATION OR SIGNATURE OF CASHIER

RE: Case No.: R-97-467

Petitioner/Developer: Perry Hall

United Methodist Church

Date of Hearing/Closing: Oct 9, 1997

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law
were posted conspicuously on the property located at 9515 BELAIR RD.

The sign(s) were posted on 9/3/97
(Month, Day, Year)

Sincerely,

Gary Freund 9/3/97
(Signature of Sign Poster and Date)

GARY FREUND
(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

9515 BELAIR RD



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

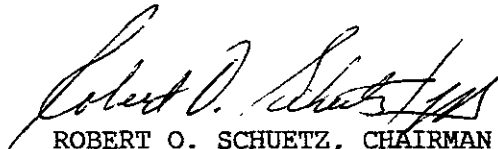
May 15, 1997

NOTICE OF HEARING

CASE NUMBER: R-97-467
9515 Belair Road
SE/S Belair Road, 485'+/- SW of c/l Horn Avenue
11th Election District - 5th Councilmanic
Legal Owner(s): Perry Hall United Methodist Church, Inc.

Reclassification petition to change the property's zoning from D.R.-3.5 to R.O.

HEARING: THURSDAY, OCTOBER 9, 1997 at 10:00 a.m., Room 48 Old Courthouse,
400 Washington Avenue before the County Board of Appeals.


ROBERT O. SCHUETZ, CHAIRMAN
COUNTY BOARD OF APPEALS

cc: Perry Hall United Methodist Church, Inc.
Francis X. Borgerding, Jr.

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COUNTY BOARD OF APPEALS
97 MAY 14 PM 12:22





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

October 9, 1997

NOTICE OF DELIBERATION

Having concluded its hearing on October 9, 1997, the Board of Appeals has scheduled the following date and time for deliberation in the matter of:

Perry Hall United Methodist Church, Inc.
CASE NO. R-97-467

DATE AND TIME : Wednesday, October 15, 1997 at 9:00 a.m.
LOCATION : Room 48, Basement, Old Courthouse

Kathleen C. Bianco
Administrator

cc: Counsel for Petitioner
Petitioner

Francis X. Borgerding, Jr., Esq.
William L. Diller, Chairman
Board of Trustees, Perry Hall UMC
William Edwards, Perry Hall UMC

Kenneth J. Wells, Inc.

James Earl Kraft, Bd of Education
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Jeffrey Long
Lawrence E. Schmidt /Zoning Commissioner
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

copied /K.W.F.



Printed with Soybean Ink
on Recycled Paper

Item 3

*People's Counsel
Exhibit #1*

**Report by the
Baltimore County
Planning Board
to the
Baltimore County
Board of Appeals**

**ZONING
RECLASSIFICATION
PETITIONS**

Cycle I, 1997

July 31, 1997





ZONING RECLASSIFICATION PETITIONS

Cycle I, 1997

Report by the Baltimore County
Planning Board

to the

Baltimore County Board of Appeals

July 31, 1997

Baltimore County
Office of Planning
Towson, Maryland

Errata Sheet
Baltimore County Office of Planning
July 31, 1997

Amendment 1 - Pages 12 and 13 regarding the Perry Hall United Methodist Church should appear with the section of the report pertaining to the Case No. R-97-467. See page 19.

Amendment 2 - Pages 24 and 25 contain the same error described in Amendment 1.

Amendment 3 - On page 30, under the heading of "Petitioner", strike "Don Fillet/Fillet Company" add "Don Filletti/Filletti Company."

**PETITIONS FOR RECLASSIFICATION
CYCLE I, 1997**

**Assigned Hearing Dates
County Board of Appeals**

Week of September 22, 1997

Case No. R-97-465

Mt. Wilson Office Park Ltd. Partnership and
Mt. Wilson Partnership

Wednesday, September 24, 1997 @ 10:00 a.m.

Week of September 29, 1997

Case No. CR-97-466-X

Warrener Rentals, Inc.

Tuesday, September 30, 1997 @ 10:00 a.m.

Week of October 6, 1997

Case No. R-97-467

Perry Hall United Methodist Church, Inc.

Thursday, October 9, 1997 @ 10:00 a.m.

Week of October 13, 1997

Case No. R-97-468

Baltimore Homes, Inc.

Wednesday, October 15, 1997 @ 10:00 a.m.

Week of October 20, 1997

Case No. R-97-469

Daniel W. Hubers; Marvin E. Smith; William W. Smith;
Geraldine Smith and William W. Smith, Trustees under
the Last Will and Testament of Gilbert K. Smith; William
W. Smith, Trustee, F/B/O Lois Leach

Thursday, October 23, 1997 @ 10:00 a.m.

Week of October 27, 1997

Case No. CR-97-470-X

Don Filleti / Filleti Company - Property Owner; Southland
Corporation - Contract Purchaser

Thursday, October 30, 1997 @ 10:00 a.m.

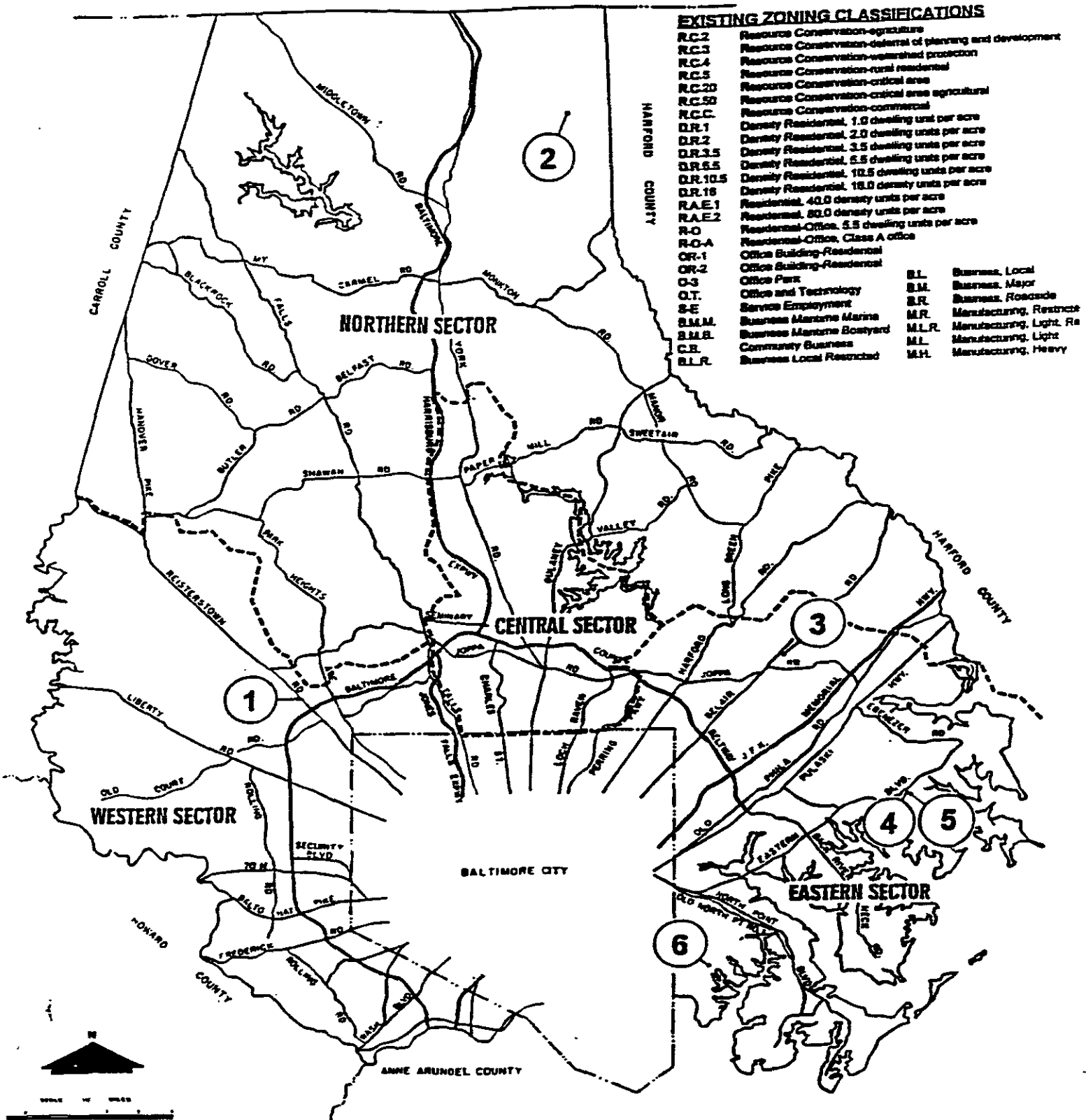
BALTIMORE COUNTY, MD
RECOMMENDATIONS OF THE OFFICE OF PLANNING AND PLANNING BOARD

July 31, 1997

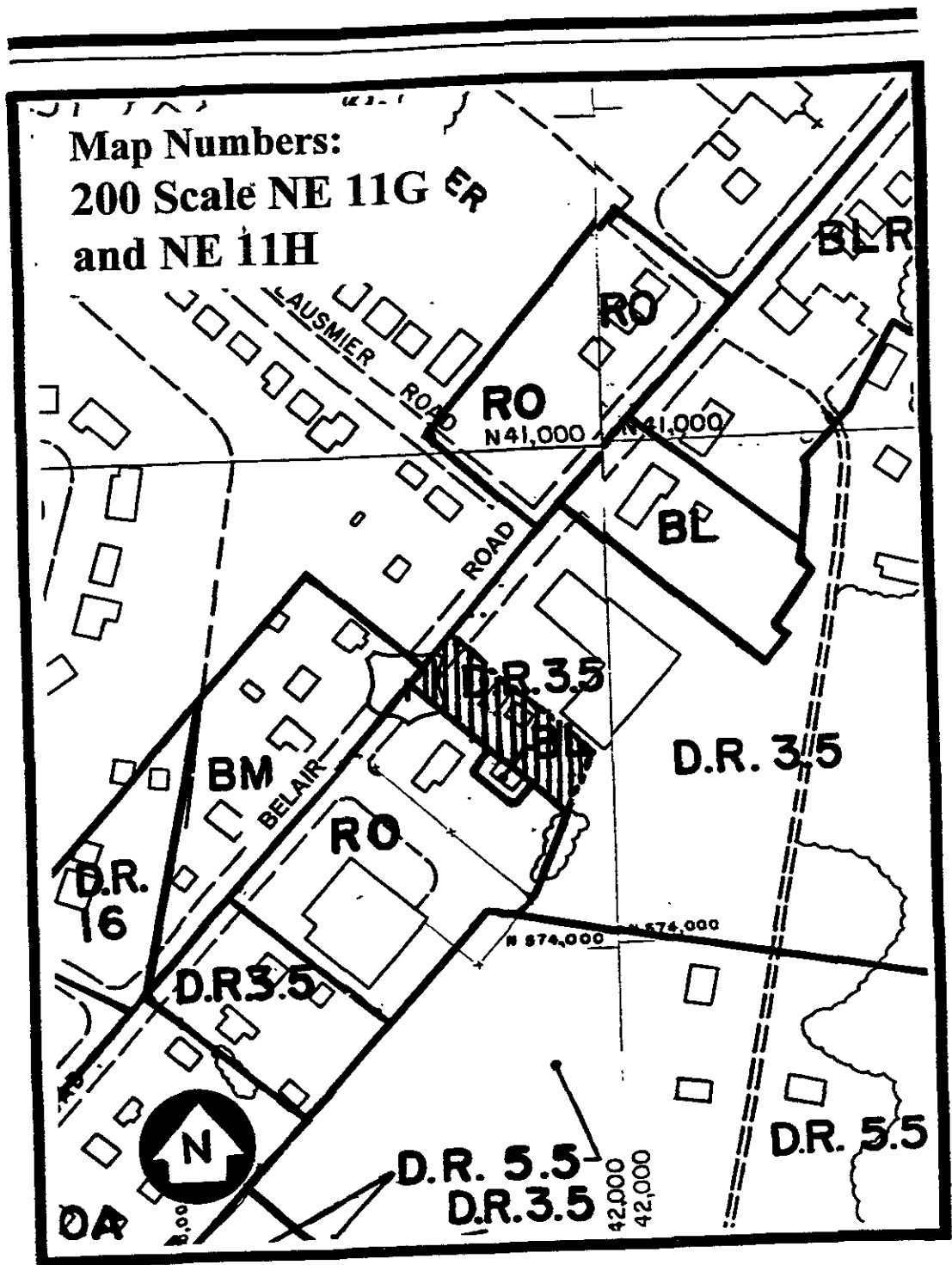
ITEM NO. and PETITIONER	LOCATION	ACREAGE	EXISTING ZONING	REQUESTED ZONING	RECOMMENDATION
Item No. 1 Mt. Wilson Office Park Ltd. Partnership Mt. Wilson Partner- ship	Southwest side Reisterstown Road 193' southeast of centerline of Mt. Wilson Lane (1856 Reisterstown Road)	3.43	RO	BL or BLR	RO
Item No. 2 Warrener Rentals. Inc.	Southeast corner Old York Road and Openshaw Road (19861 Old York Road)	1.14	RCC	BM	RCC
Item No. 3 Perry Hall United Methodist Church	Southeast side Belair Road 485' southwest of centerline of Horn Road (9515 Belair Road)	.37	DR 3.5	RO	DR 3.5
Item No. 4 Baltimore Homes Inc.	Northeast side Carroll Island Road 490' west of Bowleys Quarters Road (105- 107 Carroll Island Road)	1.24	CB	BR	CB
Item No. 5 Daniel W. Hubers & Marvin E. Smith & William W. Smith & Geraldine Smith & William W. Smith, Trustees under the Last Will and Testament of Gilbert K. Smith & William W. Smith Trustee, F/B/O Lois A. Leach	Northeast side of Carroll Island Road 435' north- east of centerline of Carroll Island Road	9.64	DR 3.5 CB	BR & BR-AS	DR 3.5 & CB
Item No. 6 Filleti Company/ Southland Corporation	Southeast corner Dunmanway and Sollers Point (7501 Dunmanway)	.867	BL	BL-AS	BL-AS

LOCATIONS OF PROPERTIES UNDER PETITION

YORK COUNTY, PA.



BALTIMORE COUNTY DEPARTMENT OF PERMITS AND
DEVELOPMENT MANAGEMENT / ZONING REVIEW



ITEM NUMBER 3
Location of Property Under Petition

Scale 1" = 200'

CASE NO. R-97-467

PETITIONER:

Perry Hall United Methodist Church, Incorporated By: William L. Diller, Chairman of the Board of Trustees

REQUESTED ACTION:

Reclassification of the subject site to RO (Residence Office)

EXISTING ZONING:

DR 3.5 (Density Residential)

LOCATION:

9513 Belair Road

AREA OF SITE:

.37 acre/16,117 square feet

ZONING OF ADJACENT PROPERTY/USE:

North: DR 3.5	Institutional
South: RO and BL	Single-family residential and commercial
East: DR 3.5	Single-family residential
West: DR 5.5 and BM	Single-family residential and office

SITE DESCRIPTION:

The site is improved with a well maintained residence that appears to have been converted into two apartments.

WATER AND SEWERAGE:

The area is served by public water and sewer and is designated as W-1, S-1 (existing service area) according to the Master Water and Sewer Plan.

TRAFFIC AND ROADS:

Belair Road is a state highway which is also known as US 1. The road is a major, north/south radial highway which extends north into Harford County and south into Baltimore City. Belair Road handles a significant amount of urban commuter traffic, and

is classified as a Principal Arterial on the 1993 Federal Highway Functional Classification Map.

ZONING HISTORY:

Numerous zoning issues have been filed on adjacent properties as part of several comprehensive zoning map processes; however, the subject property itself has never been raised as an issue.

MASTER PLAN / COMMUNITY PLANS:

In preparation for the 1996 Comprehensive Zoning Map Process, the Planning Office prepared the Belair Road Corridor Study, which was called for in the 1989-2000 Master Plan. The following pertinent recommendation regarding the Belair Road corridor is contained in the Master Plan: "Pending the completion of a corridor plan, the County will continue to resist requests to extend commercial zoning along Belair Road except in situations where the proposal would clearly be in the public interest by demonstrably improving the appearance and traffic flow on Belair Road." (see page 117).

The Belair Road Corridor Study set forth guidelines that the Planning Office used in reviewing the 1996 Comprehensive Zoning Map Process requests which were located within the study area. In addition, this office utilized these same guidelines prior to initiating staff issues.

Relative to the subject property, the Belair Road Corridor Study recommends that sites still viable in terms of their existing use should not be rezoned to a non-residential classification.

PROPOSED vs. EXISTING ZONING:

The regulations governing DR zoning may be found in Section 1B01 of the Baltimore County Zoning Regulations (BCZR), and regulations for the RO zone may be found in Section 203 of the BZCR.

OFFICE OF PLANNING RECOMMENDATION:

Based upon the clear intent of the of the Belair Road Corridor Study, the application of RO zoning would be inappropriate for this property.

MISTAKE/CHANGE/ERROR:

Based upon the information provided and analysis conducted, there appears to be a reasonable use of the property, and staff can find no justification to indicate that the property's zoning classification is in error.



Maryland Department of Transportation
State Highway Administration

Secretary
Parker F. Williams
Administrator

May 8, 1997

Ms Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building
Room 109
Towson MD 21204

RE: Baltimore County
Case No. R-97-467
Perry Hall United
Methodist Church
SE/S Belair Road
9515 Belair Road
US 1

Dear Ms. Eubanks:

We have reviewed the referenced case and we have no objection to approval of the rezoning request.

However, we will require the owner to obtain an access permit through this office.

Entrance construction shall be subject to the terms and conditions of an access permit issued by this office, with the following submittals required:

- a. Nine (9) copies of the site plan showing the SHA requirements.
- b. Completed application.
- c. Performance bond, letter of credit, or certified check (**include Federal ID number or social security number on certified checks only**) in the amount of 150% of the actual entrance construction cost and in an even thousand dollar increment. These must be made payable to the State of Maryland (**Please note that it takes 6-8 weeks for a certified check to be returned after project completion and SHA final inspection**).
- c. An engineering fee check in the amount of \$50.00 for each point of access, made payable to the State of Maryland.
- e. A letter of authorization from the appropriate agency relative to the relocation of any utilities which may be necessitated by this construction; or a letter from the developer acknowledging and agreeing to the financial responsibility for relocating any affected utilities, provided the cost for the utility relocation is included in the surety submitted for the permit.

My telephone number is 410-545-5600 (Fax# 333-1041)

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

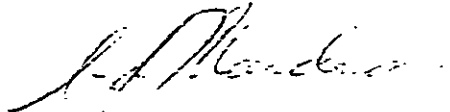
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Ms Roslyn Eubanks
Page Two
May 8, 1997

The surety for entrance construction must be received by this office prior to our approving any building permits for this development.

Please contact Larry Gredlein at 410-545-5606 if you have any questions.
Thank you for the opportunity to review this item.

Very truly yours,

A handwritten signature in dark ink, appearing to read "R. Burns", is written over a horizontal line.

Ronald Burns, Chief
Engineering Access Permits
Division

LG/eu



**Maryland Department of Transportation
State Highway Administration**

David L. Winstead
Secretary

Parker F. Williams
Administrator

May 8, 1997

Ms Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building
Room 109
Towson MD 21204

RE: Baltimore County
Case No. R-97-467
Perry Hall United
Methodist Church
SE/S Belair Road
9515 Belair Road
US 1

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Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

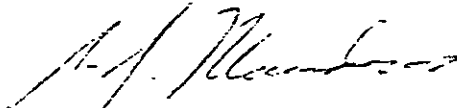
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Ms. Roslyn Eubanks
Page Two
May 8, 1997

The surety for entrance construction must be received by this office prior to our approving any building permits for this development.

Please contact Larry Gredlein at 410-545-5606 if you have any questions.
Thank you for the opportunity to review this item.

Very truly yours,

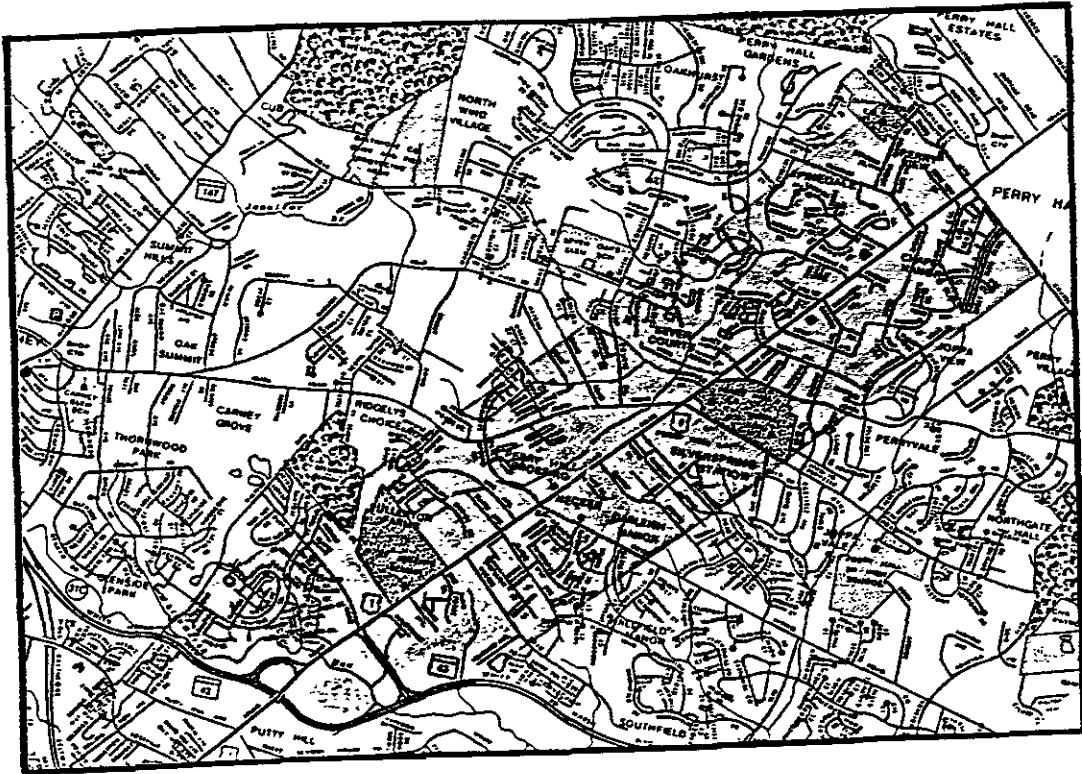
A handwritten signature in dark ink, appearing to read "R. Burns", is written over the typed name.

Ronald Burns, Chief
Engineering Access Permits
Division

LG/eu

DRAFT

*Peoples Council
Exhibit #2*



BELAIR ROAD CORRIDOR STUDY

Baltimore County Office of Planning and Zoning

BELAIR ROAD CORRIDOR STUDY

May, 1995

D R A F T

Prepared by the Baltimore County
Office of Planning and Zoning
County Courts Building, Room 406
Towson, Maryland 21204

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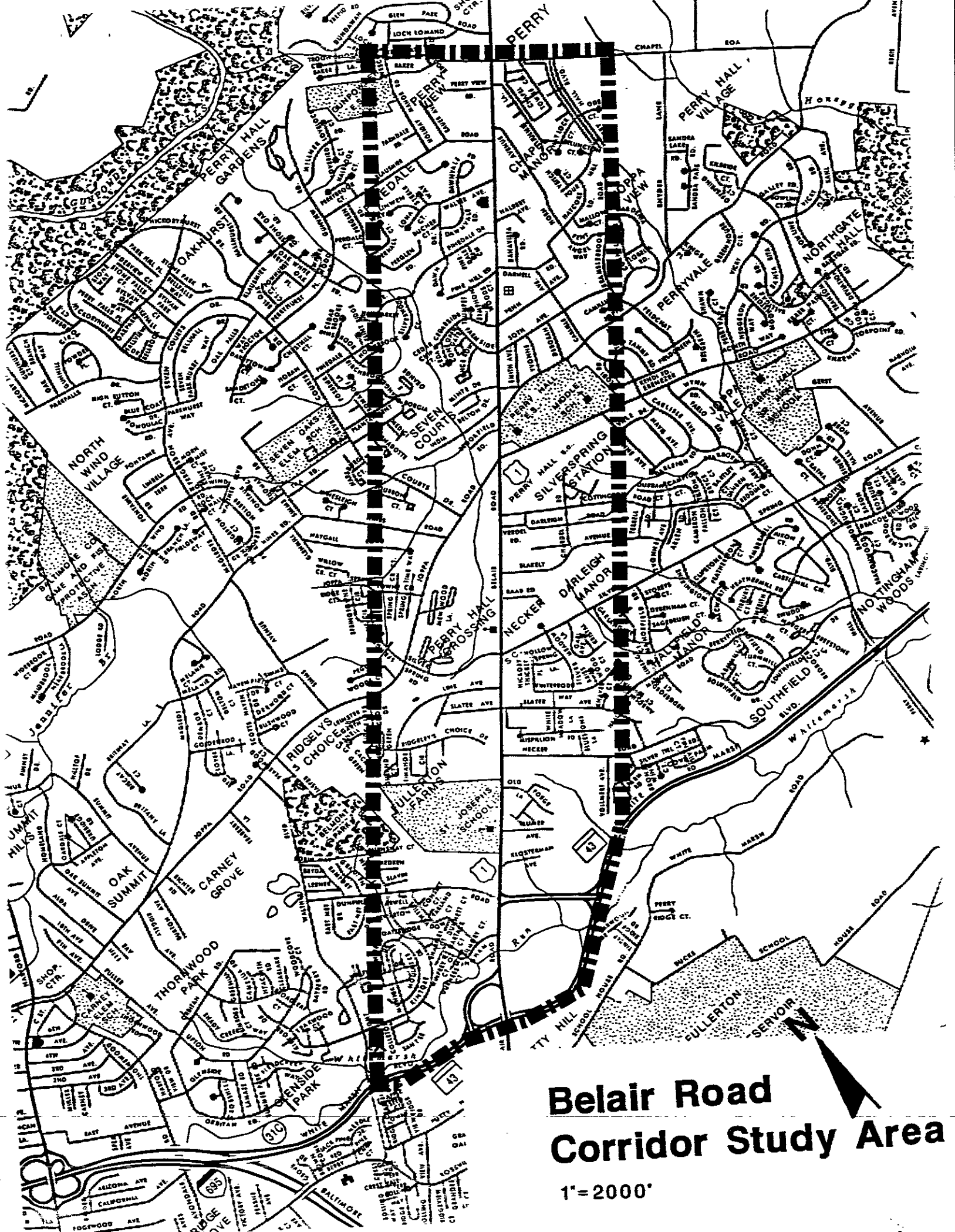
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Transportation Findings	11
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Introduction

This draft of the corridor study for Belair Road contains findings on land use, zoning, and transportation conditions and presents recommended guidelines for zoning map amendments. The study is intended to be used as a tool for raising issues and making decisions in the 1996 Baltimore County Comprehensive Zoning Map Process.

Belair Road is a state highway also known as US Route 1. The study area extends north from the bridge over White Marsh Boulevard to the intersection of Belair Road and Chapel Road/Baker Lane, a distance of approximately 3.1 miles. The corridor study focuses on lots with frontage on Belair Road, however, the study area extends beyond the frontage lots for reference and orientation and to consider potential impacts.

The origin of the corridor study is related to the Baltimore County Master Plan (1990) which calls for a corridor plan for Belair Road. The Master Plan makes the following recommendation regarding requested zoning changes along Belair Road: "Pending the completion of a corridor plan, the County will continue to resist requests to extend commercial zoning along Belair Road except in situations where the proposal would clearly be in the public interest by demonstrably improving the appearance and traffic flow on Belair Road" (see page 117).



Land Use Findings

1. Table 1 shows the distribution of various land use categories according to their respective amounts of front footage along Belair Road within the study area. To summarize:
 - a. A diverse mixture of land uses exist between White Marsh Boulevard (southern boundary) and Chapel Road/Baker Lane (northern boundary).
 - b. The primary uses are commercial and residential. As general land use categories, commercial uses and residential uses respectively occupy 40 percent and 24 percent of the total frontage.
 - c. Single family detached residential is the largest single use (19% of all frontage) followed by general commercial (15%) and vacant land (14%). Other single land use categories accounting for at least ten percent of the total frontage are institutional (11%) and community commercial (10%).
 - d. General commercial uses are the most prevalent type of commercial development on Belair Road (15% of all frontage) followed by community commercial (10%), office commercial (8%), and automotive commercial (6.7%).
 - e. Transportation is a major land user. An extensive network of public and private roads intersect with Belair Road. Also, two major power lines cross Belair Road. Together, roads and power lines and their related rights-of-way account for more than ten percent of the total frontage.
 - f. Very little frontage is used for single family attached housing, multifamily housing, and industrial purposes.
2. Single family detached dwellings are located throughout the corridor along Belair Road, but the vast majority are located north of the Minte Drive intersection. Most of the single family detached dwellings front on, and have direct access to, Belair Road. The only significant exception is the Cedarside Farm development where the dwellings along Belair Road are on either reverse frontage lots or corner lots and no dwellings face, nor have direct access to, Belair Road. Virtually all of the single family detached dwellings along Belair Road appear to be in good condition.
3. Commercial uses are located throughout the corridor along Belair Road, but they are most prevalent south of the Minte Drive intersection. There are three major commercial nodes: (1) Joppa Road/Ebenezer Road, (2) Silver Spring Road, and (3) White Marsh Boulevard.

4. The largest concentration of general commercial development on Belair Road is the Perry Hall Crossing Shopping Center located at the northwest corner of Belair Road and Silver Spring Road.
5. Significant general commercial developments affecting Belair Road, but having little or no direct frontage include:
(1) BJ's Wholesale Club (Wholesale Club Drive), Perry Hall Square Shopping Center (Ebenezer Road), and Festival at Perry Hall Shopping Center (Joppa Road west of Belair Road).
6. Many general commercial uses are located adjacent to residential areas. Such a situation, depending upon the nature and characteristics of the commercial uses, can create an adverse impact on residential properties.
7. All community commercial uses and the vast majority of office commercial uses are located north of Necker Avenue/Ridgely's Choice Drive.
8. Automotive commercial uses on Belair Road consist of five service stations, five service garages, and one vehicle sales establishment. All but three of these uses are located south of the Joppa Road/India Avenue intersection.
9. Many single family detached houses on Belair Road have been converted to commercial uses but still maintain a residential character. There are 40 such conversions in the study area. All but four of the conversions are located north of Silver Spring Road. More than half of the conversions are for office uses.
10. Several institutional uses are scattered along Belair Road. They include seven churches, the Perry Hall Elementary School, a fire station, an ambulance service, a library, and a community care facility. The largest institutional use is the St. Joseph's Catholic Church located in the southern part of the corridor opposite Plumer Avenue. Most of the institutional uses are well established and can be expected to continue at their present locations.
11. The majority of vacant land located along, or having direct access to, Belair Road is concentrated at four locations:
 - a. On the east side, between Louisa Avenue (to the south) and Plumer Avenue (to the north).
 - b. On the west side, north and south of Ridgely's Choice Drive (6.5 acres).
 - c. On the east side, south of Necker Avenue (1.1 acre).
 - d. On the east side, behind the frontage lots north of Silver Spring Road and south of Raab Avenue (2.7 acres).

12. Sites on the Maryland Historical Trust (MHT) Inventory are listed below. With the possible exception of Site No. BA2625, none of the sites meet the criteria for inclusion on the Baltimore County Landmarks List or the National Register of Historic Places.

MHT Site No.	Name	Address
BA 2619	St. Joseph's R.C. Church: Parish Hall (1925)	8416 Belair Road
BA 2620	St. Joseph's R.C. Church: Old Parochial School (1869)	8418 Belair Road
BA 2622	Perry Hall Center (Former Elementary School)	9325 Belair Road
BA 2623	De Gruchy Wheelwright Shop	9533 Belair Road
BA 2624	Germanstown Building Association (now J.R. Mechanical)	9537 Belair Road
BA 2625	St. Michael's Lutheran Church and Cemetery (1925)	9534 Belair Road

13. The surrounding area behind the frontage properties on either side of Belair Road is overwhelmingly residential. Although there are a number of townhouse and apartment developments, the predominate type of housing in terms of acreage is single family detached.

Table 1

Existing Land Use Along Belair Road, 1994
Belair Road Corridor Assessment

LAND USE	FRONT FOOTAGE	PERCENT OF TOTAL FRONTAGE
Residential	8,030	24.4
Single Family Detached	6,260	18.9
Single Family Attached	1,245	3.8
Multifamily	525	1.6
Institutional	3,560	10.8
Commercial	13,130	39.8
Office ¹	2,785	8.4
Community ²	3,375	10.2
General ³	4,770	14.5
Automotive ⁴	2,200	6.7
Industrial	110	0.3
Transportation	3,430	10.4
Roads ⁵	2,655	8.1
Power Line	775	2.4
Vacant	4,710	14.3
Total	32,970	100.0

¹ Office commercial uses include business or professional offices and medical offices.

² Community commercial uses include retail and personal service establishments and restaurants (except fast-food restaurants) with a gross floor area not exceeding 5,000 square feet. Banks with no more than two drive-through lanes are also included. Not included, however, are all such uses located in a shopping center anchored by one or more large retail stores.

³ General commercial uses include fast-food restaurants, taverns, and all other commercial uses not considered as office, automotive, or community commercial uses.

⁴ Automotive commercial uses include service stations, service garages, and vehicle sales establishments.

⁵ Does not include Chapel Road/Baker Lane (northern boundary) and White Marsh Boulevard (southern boundary).

Source: OPZ in-house information and September 1994 field survey.

Zoning Findings

1. Table 2 shows the distribution of various zoning classifications according to their respective amounts of front footage along Belair Road within the study area. To summarize:
 - a. Eleven different zoning classifications exist between White Marsh Boulevard (southern boundary) and Chapel Road/Baker Lane (northern boundary). The number of zoning classifications by general categories are as follows: Residential (3), Office (2), Business (5), and Industrial (1).
 - b. Business and Residential zoning is predominant. These general categories respectively account for 49 percent and 31 percent of the total frontage. Also, there is a substantial amount of Office zoning (19%) but very little Industrial zoning (0.3%).
 - c. Commercially zoned land includes both the Business and Office classifications. Nearly 70 percent of the land along the corridor is zoned for commercial purposes.
 - d. D.R.5.5 and B.L. are the primary single zoning classifications with each accounting for 19 percent of the total frontage. Other single classifications accounting for at least 10 percent of all frontage are B.L.-A.S. (17%), R-O (16%), and D.R.16 (10%).
 - e. B.L.-A.S. is the County's zoning classification which permits service stations. The large amount of frontage zoned B.L.-A.S. (i.e., 5,715 feet or 17% of all frontage) appears to be very excessive. The five existing service stations may be sufficient to meet the needs of local residents and commuters.
 - f. Most of the office zoning is R-O. There is also a small amount of R-O-A zoning. The R-O-A zone is a relatively new classification that became available as a zoning option during the 1992 Comprehensive Zoning Map Process. It is more restrictive than R-O zoning.
2. Business zoning is located throughout the corridor along Belair Road, but it is generally concentrated in three extensive areas:
 - a. In the southern portion: on the east side, between White Marsh Boulevard (to the south) and Louisa Avenue (to the north); on the west side, between White Marsh

Boulevard (to the south) and Stillmeadow Road (to the north).

- b. In the central portion: on the east side, between Slater Road (to the south) and north of Joppa Road (to the north); on the west side, between south of Ridgely's Choice Drive (to the south) and north of India Avenue (to the north).
 - c. In the northern portion on the east side, between Klausmier Road (to the south) and Chapel Road (to the north).
3. B.L.-A.S. zoning appears to encompass many parcels of land that are not well suited for service station development (e.g., small lots, interior lots, and lots adjacent to residential properties).
4. Office zoning is interspersed throughout the corridor along Belair Road, but it is less prevalent south of Silver Spring Road.
5. The substantial concentrations of vacant land noted in Land Use Finding 11 are zoned as follows:
- a. The land referenced in 11.a is zoned mostly R-O and D.R.5.5 and partly D.R.16.
 - b. The land referenced in 11.b is zoned B.L.
 - c. The land referenced in 11.c is zoned D.R.5.5.
 - d. The land referenced in 11.d is zoned mostly R-O and partly D.R.5.5.
6. The surrounding area behind the frontage properties on either side of Belair Road is overwhelmingly zoned Residential with three notable exceptions:
- a. The B.R. zoned area south of Ramp B (of White Marsh Boulevard) and bordered by White Marsh Boulevard on the south and the east and by the power transmission lines on the west (i.e., the area largely occupied by BJ's Wholesale Club and ABC Pools).
 - b. Land on both sides of Joppa Road between Belair Road (to the east) and Seven Courts Drive (to the west) is zoned B.R., B.L., and B.L.-A.S.
 - c. The site of the Perry Hall Square Shopping Center on the south side of Ebenezer Road is zoned B.L.-C.C.C.

7. There appears to be one significant intrusion of Business zoning into the surrounding residential community. That is a vacant, 1.73 acre B.L. zoned parcel located behind McDonald's and sandwiched between the single family detached dwellings along India Avenue (to the south) and the townhouses along Minte Drive (to the north).
8. No C.B. or B.L.R. zoning exists at this time. These classifications only recently became available for rezoning actions. They are more restrictive than the County's B.L., B.M., and B.R. classifications.
9. There are no special zoning classifications tailored to the unique needs and problems of Belair Road.
10. Historically, there has been very strong pressure for rezoning the land along Belair Road. From 1988 to 1995 there were 70 rezoning requests involving frontage properties within the study area. In slightly more than half of those cases (53%), the requests resulted in a zoning change. Generally, the changes resulted in the rezoning of properties from a Residential classification to a Business or Office classification. The zoning changes were almost evenly split between Business and Office zoning. Business zoning was granted in 20 cases while Office zoning was granted in 16 cases, and in one case the change was partly Business and partly Office.

Table 2

Existing Zoning Along Belair Road, 1994
Belair Road Corridor Assessment

ZONING	FRONT FOOTAGE ¹	PERCENT OF TOTAL FRONTAGE
Residential	10,320	31.3
D.R.3.5	550	1.7
D.R.5.5	6,355	19.3
D.R.16	3,415	10.4
Office	6,365	19.3
ROA	1,240	3.8
RO	5,125	15.5
Business	16,180	49.1
BL ²	6,205	18.8
BL-AS	5,715	17.3
BL-CCC	270	0.8
BM	1,705	5.2
BR	2,285	6.9
Industrial	105	0.3
ML	105	0.3
Total	32,970	100.0

¹Includes land lying within the rights-of-way of intersecting roads but does not include Chapel Road/Baker Lane (northern boundary) and White Marsh Boulevard (southern boundary).

²Includes the narrow strip of DR 16 zoning on the Perry Hall Crossing Shopping Center property.

Source: The Official Zoning Map of Baltimore County, September 1994.

Transportation Findings

1. Belair Road is a major, north/south radial highway leading into Baltimore City and Harford County. It serves significant urban commuter traffic, and it is classified as a Principal Arterial on the 1993 Federal Highway Functional Classification Map.
2. Within the study area, existing Belair Road generally is a four-lane, undivided roadway contained within an average 60 foot right-of-way.
3. The 1994 Traffic Volume Map prepared by the State Highway Administration shows Average Daily Traffic (ADT) counts on Belair Road to be 23,475 vehicles per day south of Joppa Road/Ebenezer Road and 31,975 vehicles per day north of Joppa Road/India Avenue.
4. The final Environmental Impact Statement (1989) for the ultimate improvement of Belair Road from Silver Spring Road to MD 152 provides the following traffic volume forecasts for Belair Road for the year 2015:

<u>Location</u>	<u>2015 ADT</u>
I-695 to Silver Spring Road	65,000
Silver Spring Road to Ebenezer Road	53,000
Ebenezer Road to Joppa Road	60,000
Joppa Road to Chapel Road	52,000

5. The east/west traffic movements through, and at the fringes of, the study area are primarily provided by: (1) White Marsh Boulevard, (2) Joppa Road West/Ebenezer Road, (3) Silver Spring Road, (4) Chapel Road, (5) Klausmier Road, and (6) Joppa Road East. These roads are classified on the 1993 Federal Highway Functional Classification Map as follows: White Marsh Boulevard is a Freeway-Expressway; Joppa Road West is a Principal Arterial; Ebenezer Road, Silver Spring Road, Chapel Road, and Klausmier Road are Minor Arterials; and Joppa Road East is a Collector.
6. Signalized intersections exist at the following locations:
 - a. Wholesale Club Drive
 - b. Dunfield Road/Ramp B
 - c. St. Joseph's Church entrance
 - d. Silver Spring Road
 - e. Perry Hall Square Shopping Center entrance

- f. Joppa Road/Ebenezer Road
 - g. Joppa Road/India Avenue
 - h. Chapel Road/Baker Lane
7. Vehicular movement on Belair Road is influenced primarily by four major factors: (1) high traffic volumes, (2) large mix of local and through traffic, (3) large amount of strip commercial development, and (4) problems created by numerous at-grade roadway and driveway connections.
8. The Baltimore County Master Plan (1990) identifies the widening of Belair Road from I-695 to the Harford County line as a programmed transportation project (see page 118). The Master Plan also identifies a number of proposed road improvements that are partly located within the study area. The upgrading of Klausmier Road from Belair Road to Gunview Road is included as a programmed transportation project, however, this project was deleted from the Capital Improvements Program in FY 1992. The following improvements are proposed as non-programmed projects:
- a. Widen Ebenezer Road from Belair Road to Honeygo Boulevard.
 - b. Widen Chapel Road from Belair Road to Joppa Road.
 - c. Upgrade Joppa Road from Belair Road to Philadelphia Road.
9. The reconstruction of Belair Road from I-695 to White Marsh Boulevard (i.e., just south of the study area) is in the Secondary Construction Program of the Maryland Department of Transportation (MDOT) 1995 Consolidated Transportation Program (CTP). Construction began in the fall of 1993 on the project to widen Belair Road to six lanes, with a seven lane section from south of Martin Avenue to Putty Hill Road. It is anticipated that the project will be completed in late 1995.
10. The reconstruction of Belair Road from White Marsh Boulevard (southern study area boundary) to MD 152 (in Harford County) is in the Secondary Development and Evaluation Program of the 1995 CTP. The status of this project and interim improvements are as follows:
- a. Final review plans for the ultimate improvement of the segment of Belair Road extending from White Marsh Boulevard to north of Silver Spring Road have been completed by the State Highway Administration. The

final design will consist of a six lane divided highway (seven lanes from Slater Avenue to south of Silver Spring Road) with turn lanes and local intersection improvements. The typical right-of-way section will be 104 feet. Construction of this project will be on hold until construction funding becomes available.

- b. A Final Environmental Impact Statement for the ultimate improvement of Belair Road from Silver Spring Road to MD 152 was completed in 1989. The selected alternative consists of a six lane divided highway within approximately 106 feet of right-of-way. There is no funding for the final design, right-of-way acquisition, or construction at this time.
- c. As an interim improvement, the segment of Belair Road extending from White Marsh Boulevard to Joppa Road/Ebenezer Road was resurfaced in 1994. This project also included minor safety, curbing, and drainage improvements.
- d. As an interim improvement, the segment of Belair Road extending from south of Joppa Road/Ebenezer Road to north of Cliffvale Road (north of the study area) will be widened to five lanes. The typical right-of-way section is 90 feet. This project is included in the Secondary Construction Program of the 1995 CTP. Construction is scheduled to begin in the summer of 1995 and to be completed in December 1996. This project will cause the removal of three existing buildings on Belair Road: Schaffer's Tavern (northwest corner of Belair Road and Joppa Road West), Little Shop of Dough (northeast corner of Belair Road and Joppa Road East), and the old Klausmier and Sons Building (170' north of Walter Avenue).

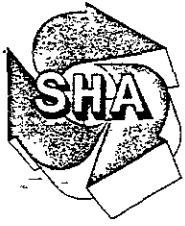
Recommended Zoning Guidelines

The guidelines set forth below should be used in making decisions concerning the rezoning of properties located within the corridor study area. All rezoning requests will be reviewed by the Office of Planning and Zoning (OPZ) for conformance with these guidelines. Also, zoning issues will be initiated in the 1996 Comprehensive Zoning Map Process by the OPZ in accordance with these guidelines.

The following guidelines are recommended:

1. Sites that are presently zoned residential (no R-O-A or R-O) and are still viable for their existing use or for future residential development should not be rezoned to a non-residential classification.
2. Residentially zoned sites that are no longer considered suitable for residential uses but are located adjacent to residential areas should be considered for R-O-A, R-O, OR-2, C.B., and B.L.R. zoning.
3. Requests for B.L., B.M. or B.R. zoning should not be granted for sites located adjacent to residential areas. Zones such as R-O-A, R-O, S-E, OR-2, C.B., and B.L.R. should be considered instead because they are much more compatible with residential areas.
4. No new commercial zoning should be allowed to extend into adjacent residential areas.
5. Consideration should be given to rezoning undeveloped and developed parcels zoned B.L., B.M., and B.R. which are located adjacent to residential areas. However, no commercially developed parcel should be rezoned to a classification which does not permit the existing use.
6. Underutilized Automotive Service (A.S.) zoning should be removed from locations that are inappropriate or not needed for service station development.

DW:lw
DWBELR.AS/PZONE/TXTLLE



**Maryland Department of Transportation
State Highway Administration**

*Petitioner
Included # 6
10/9/97*

David L. Winstead
Secretary

Parker F. Williams
Administrator

May 8, 1997

Ms Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building
Room 109
Towson MD 21204

RE: Baltimore County
Case No. R-97-467
Perry Hall United
Methodist Church
SE/S Belair Road
9515 Belair Road
US 1

Dear Ms. Eubanks:

We have reviewed the referenced case and we have no objection to approval of the rezoning request.

However, we will require the owner to obtain an access permit through this office.

Entrance construction shall be subject to the terms and conditions of an access permit issued by this office, with the following submittals required:

- a. Nine (9) copies of the site plan showing the SHA requirements.
- b. Completed application.
- c. Performance bond, letter of credit, or certified check (**include Federal ID number or social security number on certified checks only**) in the amount of 150% of the actual entrance construction cost and in an even thousand dollar increment. These must be made payable to the State of Maryland (**Please note that it takes 6-8 weeks for a certified check to be returned after project completion and SHA final inspection**).
- c. An engineering fee check in the amount of \$50.00 for each point of access, made payable to the State of Maryland.
- e. A letter of authorization from the appropriate agency relative to the relocation of any utilities which may be necessitated by this construction; or a letter from the developer acknowledging and agreeing to the financial responsibility for relocating any affected utilities, provided the cost for the utility relocation is included in the surety submitted for the permit.

My telephone number is 410-545-5600 (Fax# 333-1041)

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Pet. #6

Ms. Roslyn Eubanks
Page Two
May 8, 1997

The surety for entrance construction must be received by this office prior to our approving any building permits for this development.

Please contact Larry Gredlein at 410-545-5606 if you have any questions.
Thank you for the opportunity to review this item.

Very truly yours,

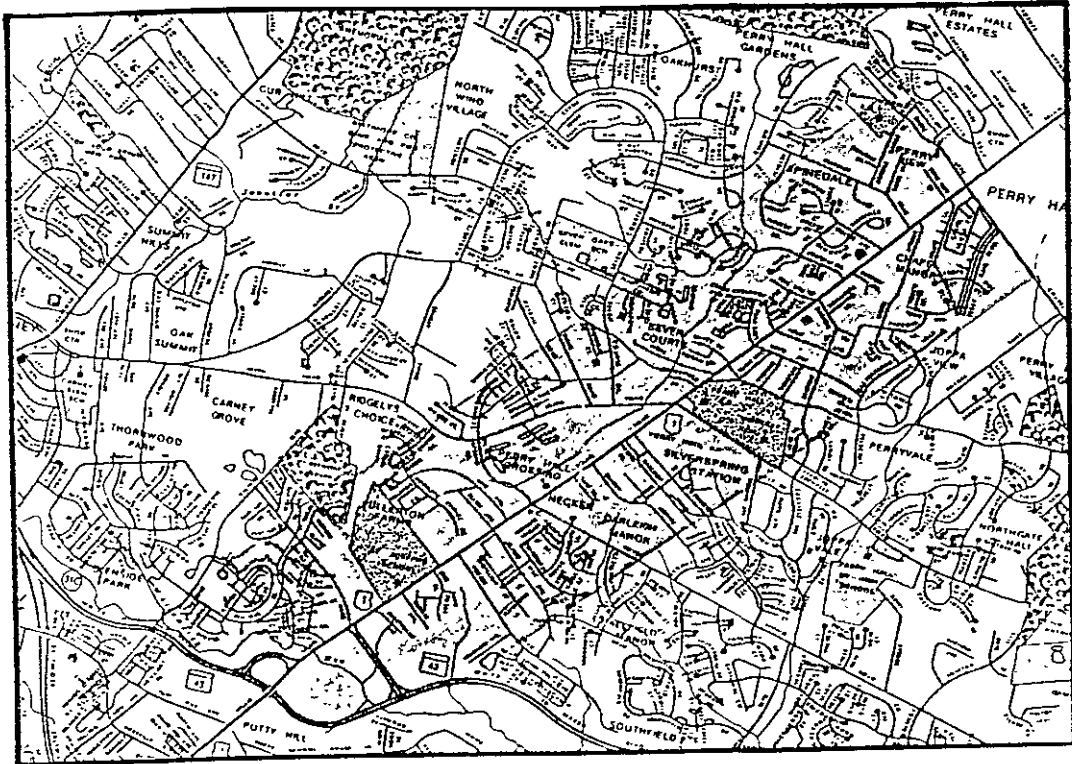
A handwritten signature in black ink, appearing to read "R. Burns", written over a horizontal line.

Ronald Burns, Chief
Engineering Access Permits
Division

LG/eu

Petitioner's
Exhibit #7
10/9/97

DRAFT



BELAIR ROAD CORRIDOR STUDY

Ref. #7

Baltimore County Office of Planning and Zoning

BELAIR ROAD CORRIDOR STUDY

May, 1995

D R A F T

Prepared by the Baltimore County
Office of Planning and Zoning
County Courts Building, Room 406
Towson, Maryland 21204

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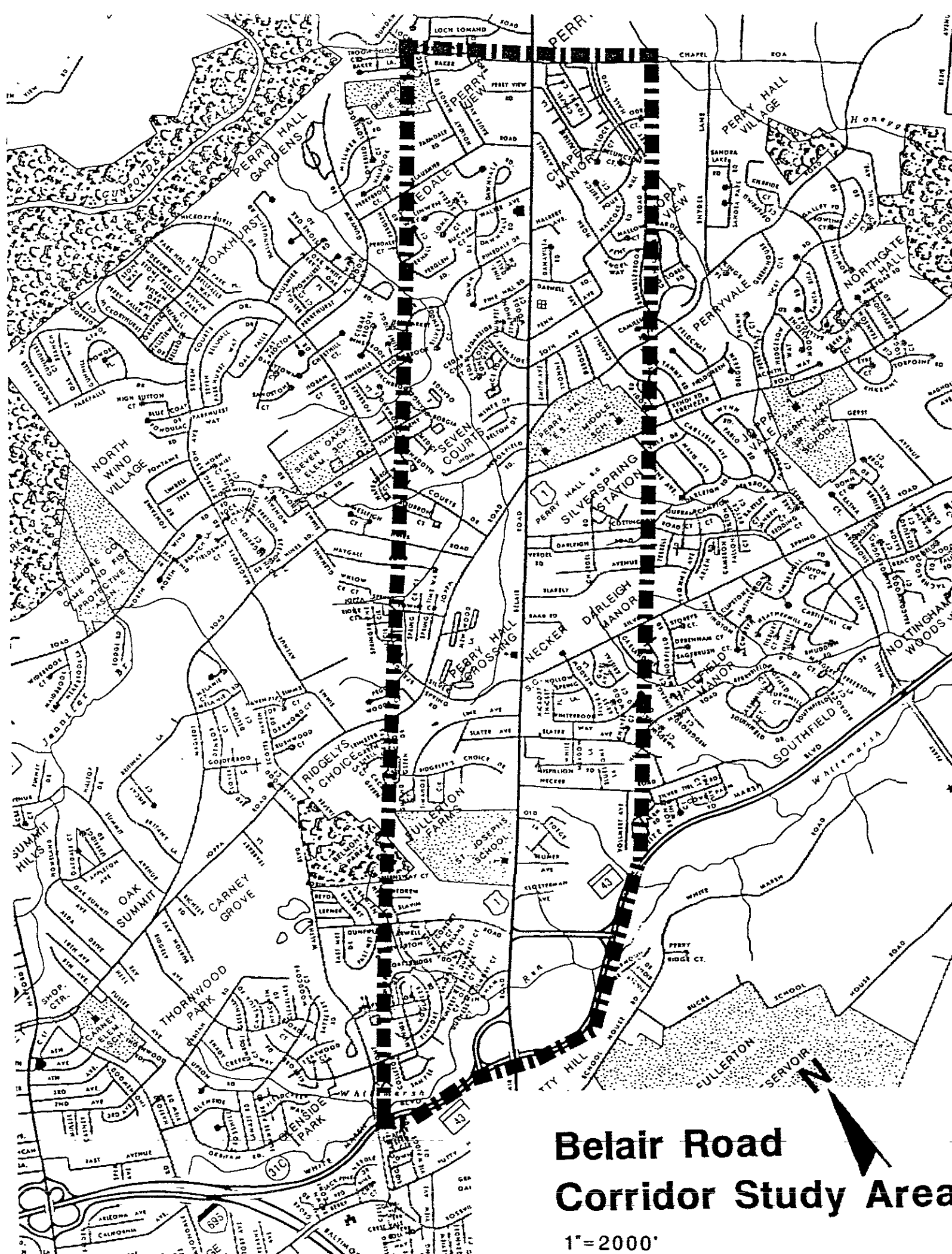
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Belair Road Corridor Study Area

1"=2000'

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2. Single family detached dwellings are located throughout the corridor along Belair Road, but the vast majority are located north of the Minte Drive intersection. Most of the single family detached dwellings front on, and have direct access to, Belair Road. The only significant exception is the Cedarside Farm development where the dwellings along Belair Road are on either reverse frontage lots or corner lots and no dwellings face, nor have direct access to, Belair Road. Virtually all of the single family detached dwellings along Belair Road appear to be in good condition.
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11. The majority of vacant land located along, or having direct access to, Belair Road is concentrated at four locations:
 - a. On the east side, between Louisa Avenue (to the south) and Plumer Avenue (to the north).
 - b. On the west side, north and south of Ridgely's Choice Drive (6.5 acres).
 - c. On the east side, south of Necker Avenue (1.1 acre).
 - d. On the east side, behind the frontage lots north of Silver Spring Road and south of Raab Avenue (2.7 acres).

12. Sites on the Maryland Historical Trust (MHT) Inventory are listed below. With the possible exception of Site No. BA2625, none of the sites meet the criteria for inclusion on the Baltimore County Landmarks List or the National Register of Historic Places.

MHT Site No.	Name	Address
BA 2619	St. Joseph's R.C. Church: Parish Hall (1925)	8416 Belair Road
BA 2620	St. Joseph's R.C. Church: Old Parochial School (1869)	8418 Belair Road
BA 2622	Perry Hall Center (Former Elementary School)	9325 Belair Road
BA 2623	De Gruchy Wheelwright Shop	9533 Belair Road
BA 2624	Germanstown Building Association (now J.R. Mechanical)	9537 Belair Road
BA 2625	St. Michael's Lutheran Church and Cemetery (1925)	9534 Belair Road

13. The surrounding area behind the frontage properties on either side of Belair Road is overwhelmingly residential. Although there are a number of townhouse and apartment developments, the predominate type of housing in terms of acreage is single family detached.

Table 1

Existing Land Use Along Belair Road, 1994
Belair Road Corridor Assessment

LAND USE	FRONT FOOTAGE	PERCENT OF TOTAL FRONTAGE
Residential	8,030	24.4
Single Family Detached	6,260	18.9
Single Family Attached	1,245	3.8
Multifamily	525	1.6
Institutional	3,560	10.8
Commercial	13,130	39.8
Office ¹	2,785	8.4
Community ²	3,375	10.2
General ³	4,770	14.5
Automotive ⁴	2,200	6.7
Industrial	110	0.3
Transportation	3,430	10.4
Roads ⁵	2,655	8.1
Power Line	775	2.4
Vacant	4,710	14.3
Total	32,970	100.0

¹ Office commercial uses include business or professional offices and medical offices.

² Community commercial uses include retail and personal service establishments and restaurants (except fast-food restaurants) with a gross floor area not exceeding 5,000 square feet. Banks with no more than two drive-through lanes are also included. Not included, however, are all such uses located in a shopping center anchored by one or more large retail stores.

³ General commercial uses include fast-food restaurants, taverns, and all other commercial uses not considered as office, automotive, or community commercial uses.

⁴ Automotive commercial uses include service stations, service garages, and vehicle sales establishments.

⁵ Does not include Chapel Road/Baker Lane (northern boundary) and White Marsh Boulevard (southern boundary).

Source: OPZ in-house information and September 1994 field survey.

Zoning Findings

1. Table 2 shows the distribution of various zoning classifications according to their respective amounts of front footage along Belair Road within the study area. To summarize:
 - a. Eleven different zoning classifications exist between White Marsh Boulevard (southern boundary) and Chapel Road/Baker Lane (northern boundary). The number of zoning classifications by general categories are as follows: Residential (3), Office (2), Business (5), and Industrial (1).
 - b. Business and Residential zoning is predominant. These general categories respectively account for 49 percent and 31 percent of the total frontage. Also, there is a substantial amount of Office zoning (19%) but very little Industrial zoning (0.3%).
 - c. Commercially zoned land includes both the Business and Office classifications. Nearly 70 percent of the land along the corridor is zoned for commercial purposes.
 - d. D.R.5.5 and B.L. are the primary single zoning classifications with each accounting for 19 percent of the total frontage. Other single classifications accounting for at least 10 percent of all frontage are B.L.-A.S. (17%), R-O (16%), and D.R.16 (10%).
 - e. B.L.-A.S. is the County's zoning classification which permits service stations. The large amount of frontage zoned B.L.-A.S. (i.e., 5,715 feet or 17% of all frontage) appears to be very excessive. The five existing service stations may be sufficient to meet the needs of local residents and commuters.
 - f. Most of the office zoning is R-O. There is also a small amount of R-O-A zoning. The R-O-A zone is a relatively new classification that became available as a zoning option during the 1992 Comprehensive Zoning Map Process. It is more restrictive than R-O zoning.
2. Business zoning is located throughout the corridor along Belair Road, but it is generally concentrated in three extensive areas:
 - a. In the southern portion: on the east side, between White Marsh Boulevard (to the south) and Louisa Avenue (to the north); on the west side, between White Marsh

Boulevard (to the south) and Stillmeadow Road (to the north).

- b. In the central portion: on the east side, between Slater Road (to the south) and north of Joppa Road (to the north); on the west side, between south of Ridgely's Choice Drive (to the south) and north of India Avenue (to the north).
 - c. In the northern portion on the east side, between Klausmier Road (to the south) and Chapel Road (to the north).
- 3. B.L.-A.S. zoning appears to encompass many parcels of land that are not well suited for service station development (e.g., small lots, interior lots, and lots adjacent to residential properties).
 - 4. Office zoning is interspersed throughout the corridor along Belair Road, but it is less prevalent south of Silver Spring Road.
 - 5. The substantial concentrations of vacant land noted in Land Use Finding 11 are zoned as follows:
 - a. The land referenced in 11.a is zoned mostly R-O and D.R.5.5 and partly D.R.16.
 - b. The land referenced in 11.b is zoned B.L.
 - c. The land referenced in 11.c is zoned D.R.5.5.
 - d. The land referenced in 11.d is zoned mostly R-O and partly D.R.5.5.
 - 6. The surrounding area behind the frontage properties on either side of Belair Road is overwhelmingly zoned Residential with three notable exceptions:
 - a. The B.R. zoned area south of Ramp B (of White Marsh Boulevard) and bordered by White Marsh Boulevard on the south and the east and by the power transmission lines on the west (i.e., the area largely occupied by BJ's Wholesale Club and ABC Pools).
 - b. Land on both sides of Joppa Road between Belair Road (to the east) and Seven Courts Drive (to the west) is zoned B.R., B.L., and B.L.-A.S.
 - c. The site of the Perry Hall Square Shopping Center on the south side of Ebenezer Road is zoned B.L.-C.C.C.

7. There appears to be one significant intrusion of Business zoning into the surrounding residential community. That is a vacant, 1.73 acre B.L. zoned parcel located behind McDonald's and sandwiched between the single family detached dwellings along India Avenue (to the south) and the townhouses along Minte Drive (to the north).
8. No C.B. or B.L.R. zoning exists at this time. These classifications only recently became available for rezoning actions. They are more restrictive than the County's B.L., B.M., and B.R. classifications.
9. There are no special zoning classifications tailored to the unique needs and problems of Belair Road.
10. Historically, there has been very strong pressure for rezoning the land along Belair Road. From 1988 to 1995 there were 70 rezoning requests involving frontage properties within the study area. In slightly more than half of those cases (53%), the requests resulted in a zoning change. Generally, the changes resulted in the rezoning of properties from a Residential classification to a Business or Office classification. The zoning changes were almost evenly split between Business and Office zoning. Business zoning was granted in 20 cases while Office zoning was granted in 16 cases, and in one case the change was partly Business and partly Office.

Table 2

Existing Zoning Along Belair Road, 1994
Belair Road Corridor Assessment

ZONING	FRONT FOOTAGE ¹	PERCENT OF TOTAL FRONTAGE
Residential	10,320	31.3
D.R.3.5	550	1.7
D.R.5.5	6,355	19.3
D.R.16	3,415	10.4
Office	6,365	19.3
ROA	1,240	3.8
RO	5,125	15.5
Business	16,180	49.1
BL ²	6,205	18.8
BL-AS	5,715	17.3
BL-CCC	270	0.8
BM	1,705	5.2
BR	2,285	6.9
Industrial	105	0.3
ML	105	0.3
Total	32,970	100.0

¹Includes land lying within the rights-of-way of intersecting roads but does not include Chapel Road/Baker Lane (northern boundary) and White Marsh Boulevard (southern boundary).

²Includes the narrow strip of DR 16 zoning on the Perry Hall Crossing Shopping Center property.

Source: The Official Zoning Map of Baltimore County, September 1994.

Transportation Findings

1. Belair Road is a major, north/south radial highway leading into Baltimore City and Harford County. It serves significant urban commuter traffic, and it is classified as a Principal Arterial on the 1993 Federal Highway Functional Classification Map.
2. Within the study area, existing Belair Road generally is a four-lane, undivided roadway contained within an average 60 foot right-of-way.
3. The 1994 Traffic Volume Map prepared by the State Highway Administration shows Average Daily Traffic (ADT) counts on Belair Road to be 23,475 vehicles per day south of Joppa Road/Ebenezer Road and 31,975 vehicles per day north of Joppa Road/India Avenue.
4. The final Environmental Impact Statement (1989) for the ultimate improvement of Belair Road from Silver Spring Road to MD 152 provides the following traffic volume forecasts for Belair Road for the year 2015:

<u>Location</u>	<u>2015 ADT</u>
I-695 to Silver Spring Road	65,000
Silver Spring Road to Ebenezer Road	53,000
Ebenezer Road to Joppa Road	60,000
Joppa Road to Chapel Road	52,000

5. The east/west traffic movements through, and at the fringes of, the study area are primarily provided by: (1) White Marsh Boulevard, (2) Joppa Road West/Ebenezer Road, (3) Silver Spring Road, (4) Chapel Road, (5) Klausmier Road, and (6) Joppa Road East. These roads are classified on the 1993 Federal Highway Functional Classification Map as follows: White Marsh Boulevard is a Freeway-Expressway; Joppa Road West is a Principal Arterial; Ebenezer Road, Silver Spring Road, Chapel Road, and Klausmier Road are Minor Arterials; and Joppa Road East is a Collector.
6. Signalized intersections exist at the following locations:
 - a. Wholesale Club Drive
 - b. Dunfield Road/Ramp B
 - c. St. Joseph's Church entrance
 - d. Silver Spring Road
 - e. Perry Hall Square Shopping Center entrance

- f. Joppa Road/Ebenezer Road
 - g. Joppa Road/India Avenue
 - h. Chapel Road/Baker Lane
7. Vehicular movement on Belair Road is influenced primarily by four major factors: (1) high traffic volumes, (2) large mix of local and through traffic, (3) large amount of strip commercial development, and (4) problems created by numerous at-grade roadway and driveway connections.
8. The Baltimore County Master Plan (1990) identifies the widening of Belair Road from I-695 to the Harford County line as a programmed transportation project (see page 118). The Master Plan also identifies a number of proposed road improvements that are partly located within the study area. The upgrading of Klausmier Road from Belair Road to Gunview Road is included as a programmed transportation project, however, this project was deleted from the Capital Improvements Program in FY 1992. The following improvements are proposed as non-programmed projects:
- a. Widen Ebenezer Road from Belair Road to Honeygo Boulevard.
 - b. Widen Chapel Road from Belair Road to Joppa Road.
 - c. Upgrade Joppa Road from Belair Road to Philadelphia Road.
9. The reconstruction of Belair Road from I-695 to White Marsh Boulevard (i.e., just south of the study area) is in the Secondary Construction Program of the Maryland Department of Transportation (MDOT) 1995 Consolidated Transportation Program (CTP). Construction began in the fall of 1993 on the project to widen Belair Road to six lanes, with a seven lane section from south of Martin Avenue to Putty Hill Road. It is anticipated that the project will be completed in late 1995.
10. The reconstruction of Belair Road from White Marsh Boulevard (southern study area boundary) to MD 152 (in Harford County) is in the Secondary Development and Evaluation Program of the 1995 CTP. The status of this project and interim improvements are as follows:
- a. Final review plans for the ultimate improvement of the segment of Belair Road extending from White Marsh Boulevard to north of Silver Spring Road have been completed by the State Highway Administration. The

final design will consist of a six lane divided highway (seven lanes from Slater Avenue to south of Silver Spring Road) with turn lanes and local intersection improvements. The typical right-of-way section will be 104 feet. Construction of this project will be on hold until construction funding becomes available.

- b. A Final Environmental Impact Statement for the ultimate improvement of Belair Road from Silver Spring Road to MD 152 was completed in 1989. The selected alternative consists of a six lane divided highway within approximately 106 feet of right-of-way. There is no funding for the final design, right-of-way acquisition, or construction at this time.
- c. As an interim improvement, the segment of Belair Road extending from White Marsh Boulevard to Joppa Road/Ebenezer Road was resurfaced in 1994. This project also included minor safety, curbing, and drainage improvements.
- d. As an interim improvement, the segment of Belair Road extending from south of Joppa Road/Ebenezer Road to north of Cliffvale Road (north of the study area) will be widened to five lanes. The typical right-of-way section is 90 feet. This project is included in the Secondary Construction Program of the 1995 CTP. Construction is scheduled to begin in the summer of 1995 and to be completed in December 1996. This project will cause the removal of three existing buildings on Belair Road: Schaffer's Tavern (northwest corner of Belair Road and Joppa Road West), Little Shop of Dough (northeast corner of Belair Road and Joppa Road East), and the old Klausmier and Sons Building (170' north of Walter Avenue).

*Relator's
Exhibit #2
10/9/97*

Kenneth J. Wells, Inc.
Land Surveying and Site Planning

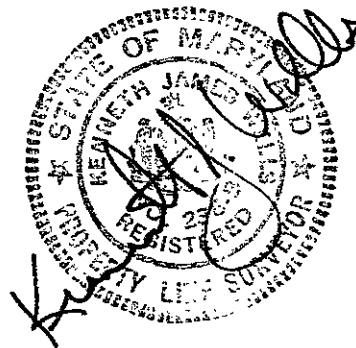
Telephone: (410) 592-8800
Telecopier: (410) 817-4329

7403 New Cut Road
Kingsville, Md. 21087-1132

2/24/97

**ZONING DESCRIPTION
PERRY HALL METHODIST CHURCH PROPERTY
9515 BELAIR ROAD
BALTIMORE COUNTY
MARYLAND**

Beginning for the same at a point on the southeast side of Belair Road approximately 458 feet south from the intersection of the southeast side of Belair Road and the centerline of Horn Avenue; thence bounding on the southeast side of Belair Road 1) South 49 degrees 31 minutes 00 seconds West 75.00 feet; thence leaving the aforementioned road 2) South 40 degrees 29 minutes 00 seconds East 235.75 feet; thence 3) North 17 degrees 25 minutes 00 seconds East 91.49 feet; thence 4) North 41 degrees 15 minutes 00 seconds West 187.15 feet to the place of beginning. Containing 0.37 acres of land more or less.



Ret. #2



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

October 6, 1997

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, Suite 600
Towson, MD 21204

RE: Item No.: 467
Case No.: r-97-467
Petitioner: William L. Diller

Dear Mr. Borgerding:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on February 27, 1997.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (410-887-3391).

Sincerely,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." The signature is written in a cursive style.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)





Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary

Parker F. Williams
Administrator

May 8, 1997

Ms Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building
Room 109
Towson MD 21204

RE: Baltimore County
Case No. R-97-467
Perry Hall United
Methodist Church
SE/S Belair Road
9515 Belair Road
US 1

Dear Ms. Eubanks:

We have reviewed the referenced case and we have no objection to approval of the rezoning request.

However, we will require the owner to obtain an access permit through this office.

Entrance construction shall be subject to the terms and conditions of an access permit issued by this office, with the following submittals required:

- a. Nine (9) copies of the site plan showing the SHA requirements.
- b. Completed application.
- c. Performance bond, letter of credit, or certified check (**include Federal ID number or social security number on certified checks only**) in the amount of 150% of the actual entrance construction cost and in an even thousand dollar increment. These must be made payable to the State of Maryland (**Please note that it takes 6-8 weeks for a certified check to be returned after project completion and SHA final inspection**).
- c. An engineering fee check in the amount of \$50.00 for each point of access, made payable to the State of Maryland.
- e. A letter of authorization from the appropriate agency relative to the relocation of any utilities which may be necessitated by this construction; or a letter from the developer acknowledging and agreeing to the financial responsibility for relocating any affected utilities, provided the cost for the utility relocation is included in the surety submitted for the permit.

My telephone number is 410-545-5600 (Fax# 333-1041)

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Ms. Roslyn Eubanks
Page Two
May 8, 1997

The surety for entrance construction must be received by this office prior to our approving any building permits for this development.

Please contact Larry Gredlein at 410-545-5606 if you have any questions.
Thank you for the opportunity to review this item.

Very truly yours,

A handwritten signature in cursive script, appearing to read "R. Burns".

Ronald Burns, Chief
Engineering Access Permits
Division

LG/eu

R-97-467 /PERRY HALL UNITED METHODIST CHURCH, INC.

10/09/97 -Hearing concluded before the Board. Public deliberation scheduled for Wednesday, October 15, 1997 at 9:00 a.m. Notice of Deliberation sent to parties this date.

10/15/97 -Deliberation concluded. Petition for Reclassification DENIED; written Opinion and Order to be issued by the Board; appellate period to run from date of that written Order. (K.W.F.)

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Perry Hall United Methodist Church, Inc.
Case No. R-97-467 /Cycle I 1997

DATE : October 15, 1997 @ 9:15 a.m.

BOARD /PANEL : Kristine K. Howanski (KKH)
Donna M. Felling (DMF)
Margaret Worrall (MW)

SECRETARY : Kathleen C. Bianco
Administrator

Those present included Francis X. Borgerding, Jr., Esquire, Counsel for Petitioner; and Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel.

Purpose: To deliberate Case No. R-97-467 /Petition for Reclassification; testimony and evidence received at hearing on October 9, 1997.

KKH: We are here to deliberate Perry Hall United Methodist Church, Inc., Case No. R-97-467 which is a reclassification petition for a property presently zoned D.R. 3.5 on Belair Road, which I think Jeff Long appropriately described as an eclectic road. Margaret, are you ready?

MW: I believe I am correct in saying that all the parties agree that the issue here, of course, is whether the County Council made an error or mistake during the comprehensive zoning map process in 1996, with regard to the subject property and its zone. Similarly, as I understand it, the burden to prove that mistake or error lies with the Petitioner.

I'm persuaded that the County Council reviewed this property thoroughly, and even more thoroughly as part of the Belair Road Corridor Study. It's being used as a residence as it has been since construction. It's well-kept and attractive. The area is a mixed-used area; corridor study calls for a mixed-use area. In fact, testimony indicated that some of the properties formerly residentially zoned but now zoned for commercial have actually continued in viable residential use.

I concur with the County's position regarding presumption of validity. The County Council made no mistake or error.

There's no need to address the appropriateness of the requested zone, and I would reserve judgement on that prong. I do not feel we, or at least I, heard sufficient evidence or testimony on that matter in any case. I am persuaded that if there has been change in the neighborhood as a result of the Belair Road widening, then the owners could have a legitimate

Minutes of Deliberation /Case No. R-97-467
Perry Hall United Methodist Church, Inc.

issue in the course of the upcoming comprehensive zoning map process.

I would not grant the request for change in zoning.

DMF: First of all, I found this to be a difficult decision because the Perry Hall United Methodist Church and the community presented a convincing argument regarding residential living. Their concerns of safety and noise pollution could be understood. I do give them a lot of credit for coming forward with issues such as constructing speed bumps, and so forth, to possibly make the situation better at this point in time.

But again, I found that according to the Baltimore County Code Section 2-356, that deals with the delegation to the Board, again that we were only looking at substantial change -- which is not an issue during this first year use -- and that the last thing was whether there was established error. Based on the Belair Road Corridor Study that was presented, and also the comprehensive map process for the County, I felt that both of those items clearly outlined intentions for this corridor, and specifically on page 14, the guidelines concerning recommended zoning -- that should be used in making those particular decisions. That corridor should remain, wherever possible, residential, and only when the property exhibited itself as something that was not viable for residential should it then be changed to another zoning -- so those two items really were what I considered very appropriate in making this decision to not support a change in the zoning at this time.

I would also concur with what you said about the comprehensive map process along with their concerns brought forward -- that would be the place to come to have this looked at to alleviate concerns.

KKH: I don't know that we get that far, but I have to concur with both of you. The case seems to be here prematurely at best. There are several facts as we saw them -- Belair Road is a major thoroughfare with mixed uses, some more residential than others. The plan is for widening of Belair Road, but the effects of any of this for change are unknown by Mr. Wells. This was filed within one year of the cycle, and we are not allowed to even consider changes and so forth.

This is not a reflection on the presentation by counsel or the character of the folks and the testimony presented on behalf of Petitioners; they were very honest and credible, with perfectly fine reasons for why they felt as they did. But there are still residential areas on Belair Road. The County Council was aware of the construction and guidelines per the Belair Road Corridor Study, and as set forth on page 14 of that study, two of which bear on this matter, items 2 and 5 --

Minutes of Deliberation /Case No. R-97-467
Perry Hall United Methodist Church, Inc.

no commercially developed parcels shall be rezoned; residentially zoned sites no longer considered viable for residential uses - ROA; and then subsequently increasing compatible uses. Through the testimony of Jeff Long, this could still have been considered premature at best.

They were not prejudiced by not being at the last comprehensive; have not pushed for the least; are without a site plan and evidence. The burden of proof remains on the Petitioner; would have to fail if it went that far. But it does seem to turn on a burden of proof case -- The County has presumption; has not been rebutted in this instance.

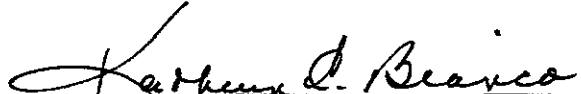
It may not be an appropriate place any more for a family with small children, but we have no evidence that it is unusable; it is in use. Referenced church that no longer had a pastor there but they had a tenant in their place. Jeff Long's testimony was the conclusion of both the Office of Planning and the Planning Board that the zoning was appropriate and there was no mistake. I have seen cases where Jeff Long has said that they did overlook it -- so I do find his testimony to be credible in this instance.

I think right now the church is simply going to have to explore alternate uses and proceed, like you say may be properly in the next cycle, when the maps are rezoned and so forth, and let nature take its course wherever that may lead. But at this point, it's prematurely here.

We will go ahead then and put together a written opinion since no one will be permitted to appeal from these deliberations, and any party feeling aggrieved will have 30 days from the date of the written opinion to note an appeal.

That will conclude our deliberations this morning. We will resume on our next scheduled case.

Respectfully submitted,


Kathleen C. Bianco
Administrator

TRANSMISSION VERIFICATION REPORT

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NAME: BOARD OF APPEALS
FAX: 4108873182
TEL: 4108873180

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COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Perry Hall United Methodist Church, Inc.
Case No. R-97-467 /Cycle 1 1997

DATE : October 15, 1997 @ 9:15 a

BOARD /PANEL : Kristine K. Howanski (KKH)
Donna M. Felling (DMF)
Margaret Worrall (MW)

SECRETARY : Kathleen C. Bianco
Administrator

Those present included Francis X. Borgerding, Jr., Esquire, Counsel for Petitioner; and Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel.

Purpose: To deliberate Case No. R-97-467 /Petition for Reclassification; testimony and evidence received at hearing on October 9, 1997.

KH: We are here to deliberate Perry Hall United Methodist Church, Inc., Case No. R-97-467 which is a reclassification petition for a property presently zoned D.R. 3.5 on Belair Road, which I think Jeff Long appropriately described as an eclectic road. Margaret, are you ready?

MW: I believe I am correct in saying that all the parties agree that the issue here, of course, is whether the County Council made an error or mistake during the comprehensive zoning map process in 1996, with regard to the subject property and its zone. Similarly, as I understand it, the burden to prove that mistake or error lies with the Petitioner.

I'm persuaded that the County Council reviewed this property thoroughly, and even more thoroughly as part of the Belair Road Corridor Study. It's being used as a residence as it has been since construction. It's well-kept and attractive. The area is a mixed-used area; corridor study calls for a mixed-use area. In fact, testimony indicated that some of the properties formerly residentially zoned but now zoned commercial have actually continued in the residential

I concur with the County's position regarding presumptive validity. The County Council made no mistake or error.

There's no need to address the appropriateness of the requested zone, and I would reserve judgement on that point. I do not feel we, or at least I, have sufficient evidence or testimony on that matter. In this case, I am persuaded that there has been change in the neighborhood as a result of Belair Road widening, and the owners do have a leg

Minutes of Deliberation /Case No. R-97-467
Perry Hall United Methodist Church, Inc.

issue in the course of the upcoming comprehensive zoning map process.

I would not grant the request for change in zoning.

DMF: First of all, I found this to be a difficult decision because the Perry Hall United Methodist Church and the community presented a convincing argument regarding residential living. Their concerns of safety and noise pollution could be understood. I do give them a lot of credit for coming forward with issues such as constructing speed bumps, and so forth, to possibly make the situation better at this point in time.

But again, I found that according to the Baltimore County Code Section 2-356, that deals with the delegation to the Board, again that we were only looking at substantial change -- which is not an issue during this first year use -- and that the last thing was whether there was established error. Based on the Belair Road Corridor Study that was presented, and also the comprehensive map process for the County, I felt that both of those items clearly outlined intentions for this corridor, and specifically on page 14, the guidelines concerning recommended zoning -- that should be used in making those particular decisions. The corridor should remain, wherever possible, residential, only when the property exhibited itself as something that was not viable for residential should it then be changed to another zoning -- so that those two items really were what I considered very appropriate in making this decision to not support a change in the zoning at this time.

I would also concur with what you said about the comprehensive map process along with their concerns brought forward -- that would be the place to come to have this looked at to alleviate concerns.

KKH: I don't know that we get that far, but I have to concur with both of you. The case seems to be here prematurely, at best. There are several facts as we saw them -- Belair Road is a major thoroughfare with mixed uses, some more residential than others. The plan is for widening of Belair Road, but the effects of any of this for change are unknown by Mr. Wells. This was filed within one year of the cycle, and we are not allowed to even consider changes and so forth.

This is not a reflection on the presentation by counsel or the character of the folks and the testimony presented on behalf of Petitioners; they were very honest and credible, with perfectly fine reasons for why they felt as they did. But there are still residential areas on Belair Road. The County Council was aware of the construction and guidelines per the Belair Road Corridor Study and as set forth on page 14 of that study, two of which bore on this matter, items 2 and 5 --

Minutes of Deliberation /Case No. R-97-467
Perry Hall United Methodist Church, Inc.

no commercially developed parcels shall be rezoned; residentially zoned sites no longer considered viable for residential uses - ROA; and then subsequently increasing compatible uses. Through the testimony of Jeff Long, this could still have been considered premature at best.

They were not prejudiced by not being at the last comprehensive; have not pushed for the least; are without a clear plan and evidence. The burden of proof remains on the petitioner; would have to fail if it went that far. But it does seem to turn on a burden of proof case -- The County has presumption; has not been rebutted in this instance.


It may not be an appropriate place any more for a family with small children, but we have no evidence that it is unusable; it is in use. Referenced church that no longer had a pastor there but they had a tenant in their place. Jeff Long's testimony was the conclusion of both the Office of Planning and the Planning Board that the zoning was appropriate and there was no mistake. I have seen cases where Jeff Long has said that they did overlook it -- so I do find his testimony to be credible in this instance.

I think right now the church is simply going to have to explore alternate uses and proceed, like you say may be properly in the next cycle, when the maps are rezoned and so forth, and let nature take its course wherever that may lead. But at this point, it's prematurely here.

We will go ahead then and put together a written opinion since no one will be permitted to appeal from these deliberations, and any party feeling aggrieved will have 30 days from the date of the written opinion to note an appeal.

That will conclude our deliberations this morning. We will resume on our next scheduled case.

Respectfully submitted,


Kathleen C. Bianco
Administrator

PERRY HALL UNITED METHODIST
CHURCH, INC. SE/s Belair Road,
485' +/- SW of centerline Horn
Avenue (9515 Belair Road)

R-97-467
ITEM #3, CYCLE I, 1997
11th Election District
5th Councilmanic District

From D.R. 3.5 to R.O.
.37 acre

Open Site Plan

February 28, 1997

Petition for Reclassification filed by Francis X.
Borgerding, Jr., Esquire, on behalf of Perry Hall United
Methodist Church, Inc.

* Francis X. Borgerding, Jr., Esquire
DINENNA AND BRESCHI
Suite 600
Mercantile-Towson Building
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Counsel for Petitioners

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Board of Trustees
Perry Hall United Methodist Church
9515 Belair Road
Baltimore, MD 21236

Petitioner

William Edwards
Perry Hall United Methodist Church
9515 Belair Road
Baltimore, MD 21236

Petitioner

Kenneth J. Wells, Inc.
7403 New Cut Road
Kingsville, MD 21087

Paula J. Fordham
Court Reporter
(800) 734-5292

Ofc. (410) 837-3027
24 Hrs. A Day
Fax (410) 685-6361

James Earl Kraft
Baltimore County Board of Education
Mail Stop 1102-J

People's Counsel for
Baltimore County

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Reporting & Video Company, Inc.

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Baltimore, MD 21201

Litigation Support
Conference Rooms

Affiliated With Towson Reporting Co., Inc.

Pat Keller
Jeffrey Long
Lawrence E. Schmidt
W. Carl Richards, Jr.
Docket Clerk /PDM
Arnold Jablon, Director /PDM

T/C TO Gwenz/PDM
9-22-97-
Request sign to
be moved from
front of Church
to front of house
to the right of
church when looking
from Belair Rd.
Ch
9.97

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 28, 1998
Permits & Development Management

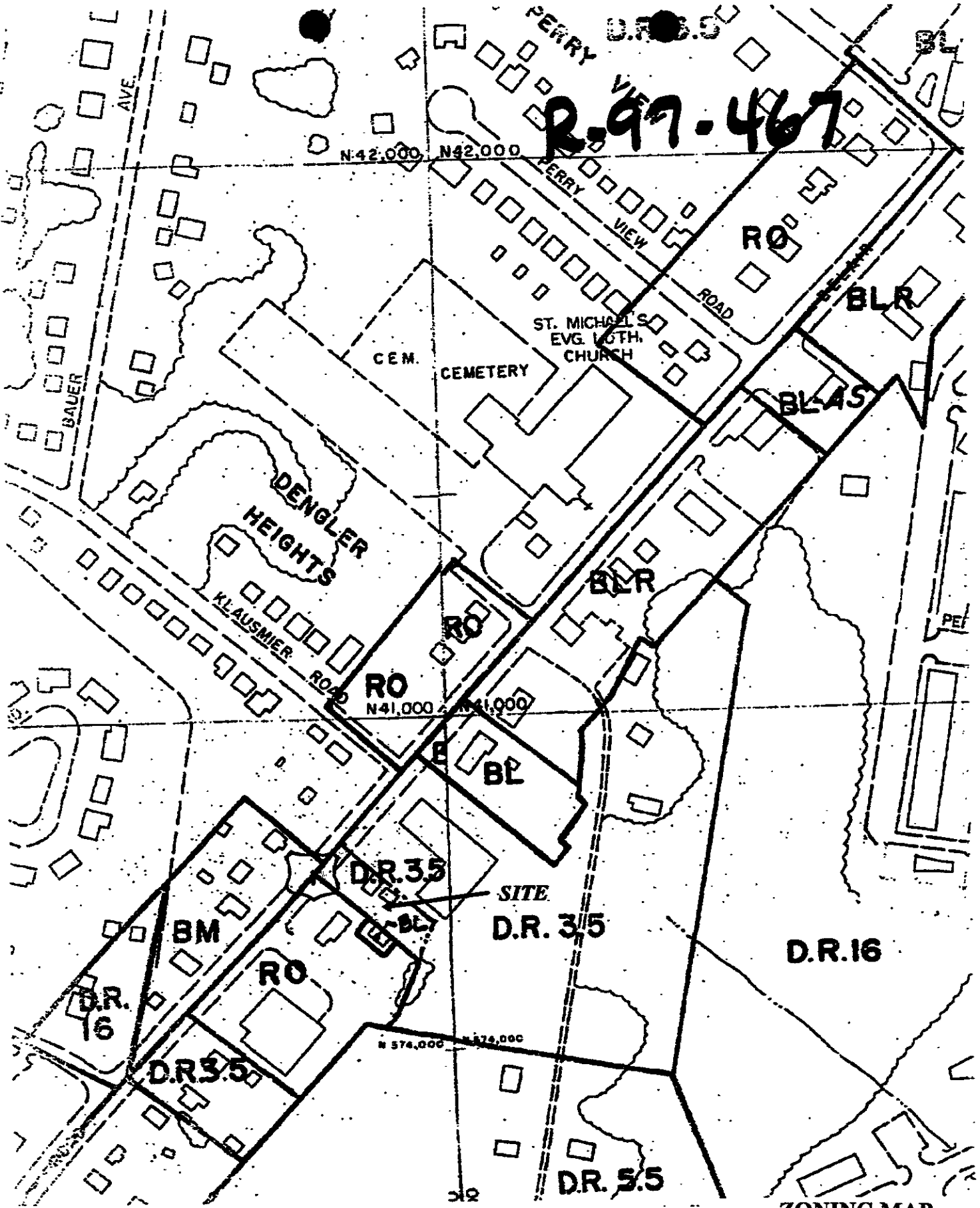
FROM: Charlotte E. Radcliffe *CR*
County Board of Appeals

SUBJECT: Closed File:
R-97-467 /Perry Hall Methodist Church, Inc.

As no further appeals have been taken in the above captioned case, we are hereby closing the file and returning same to you herewith.

Attachment (Case File No. R-97-467) *+*

*LARGE
Pet. Ex #5*



2-97-467

ZONING MAP
NE 11 G
1" = 200'

ZONING MAP

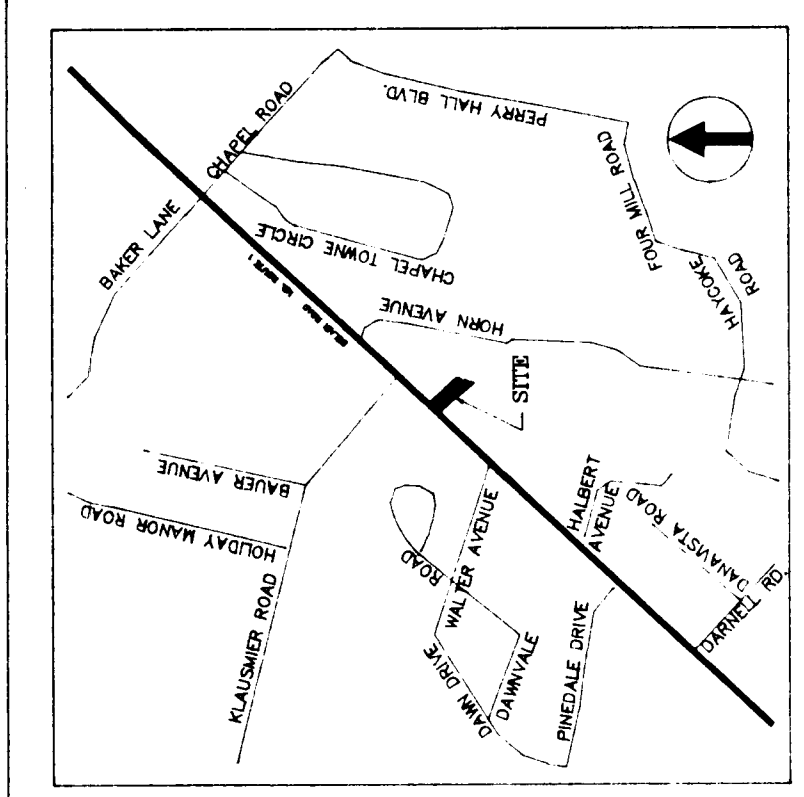
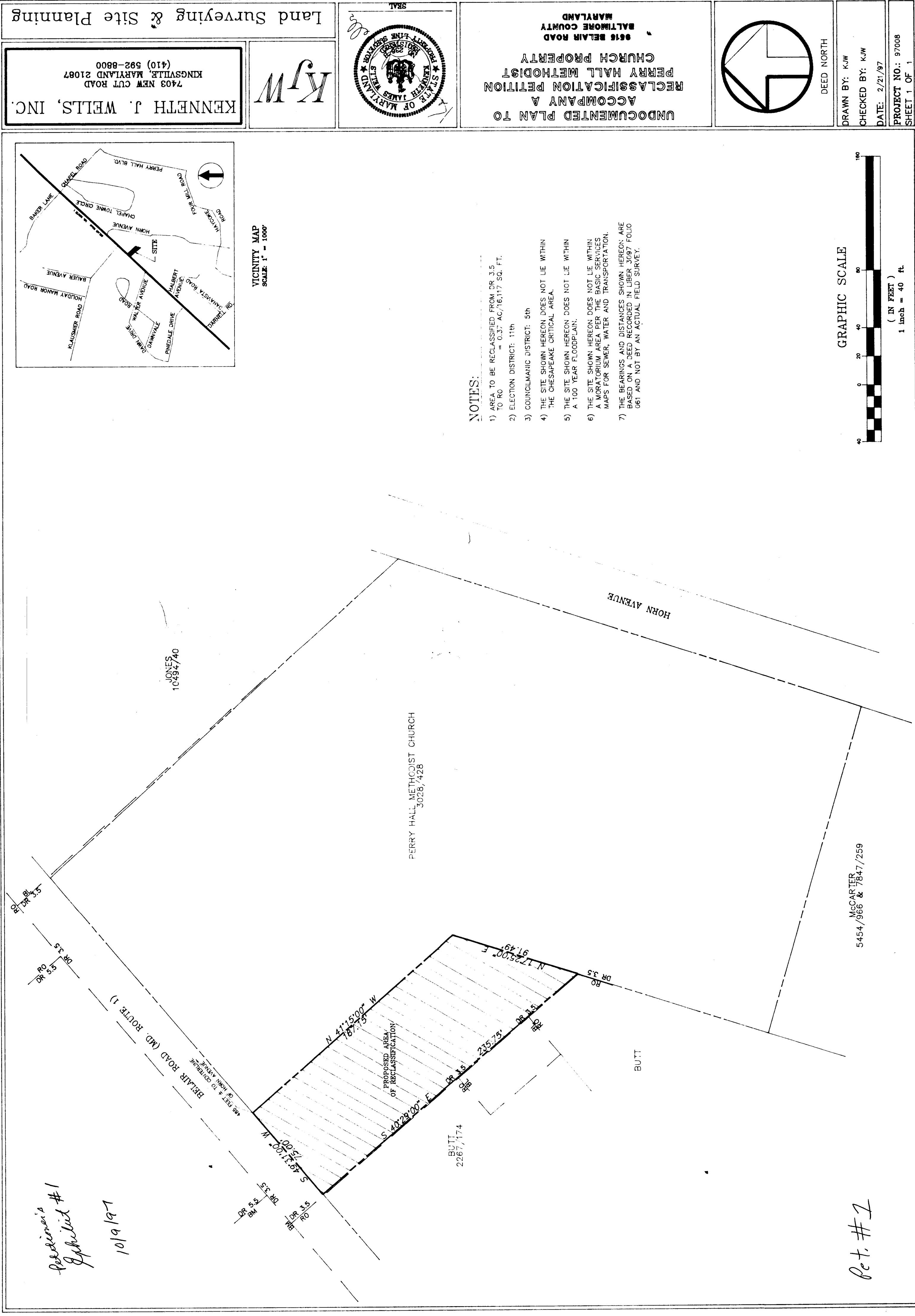
4C

1"=1000'

ZONING MAP

4C

1"=1000'

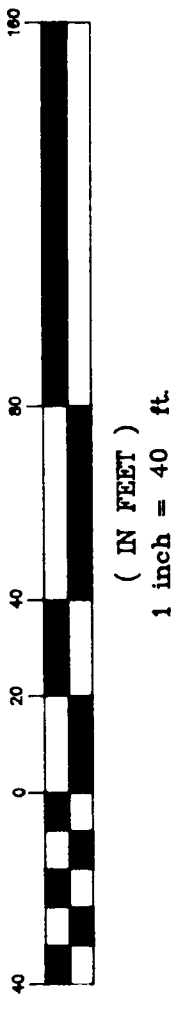


VICINITY MAP
SCALE: 1" = 1000'

NOTES:

- 1) AREA TO BE RECLASSIFIED FROM DR 3.5 TO R0 = 0.37 AC/16,117 SQ. FT.
- 2) ELECTION DISTRICT: 11th
- 3) COUNCILMANIC DISTRICT: 5th
- 4) THE SITE SHOWN HEREON DOES NOT LIE WITHIN THE CHESAPEAKE CRITICAL AREA.
- 5) THE SITE SHOWN HEREON DOES NOT LIE WITHIN A 100 YEAR FLOODPLAIN.
- 6) THE SITE SHOWN HEREON DOES NOT LIE WITHIN A MORATORIUM AREA PER THE BASIC SERVICES MAPS FOR SEWER, WATER AND TRANSPORTATION.
- 7) THE BEARINGS AND DISTANCES SHOWN HEREON ARE BASED ON A DEED RECORDED IN LIBER 3697 FOLIO 061 AND NOT BY AN ACTUAL FIELD SURVEY.

GRAPHIC SCALE



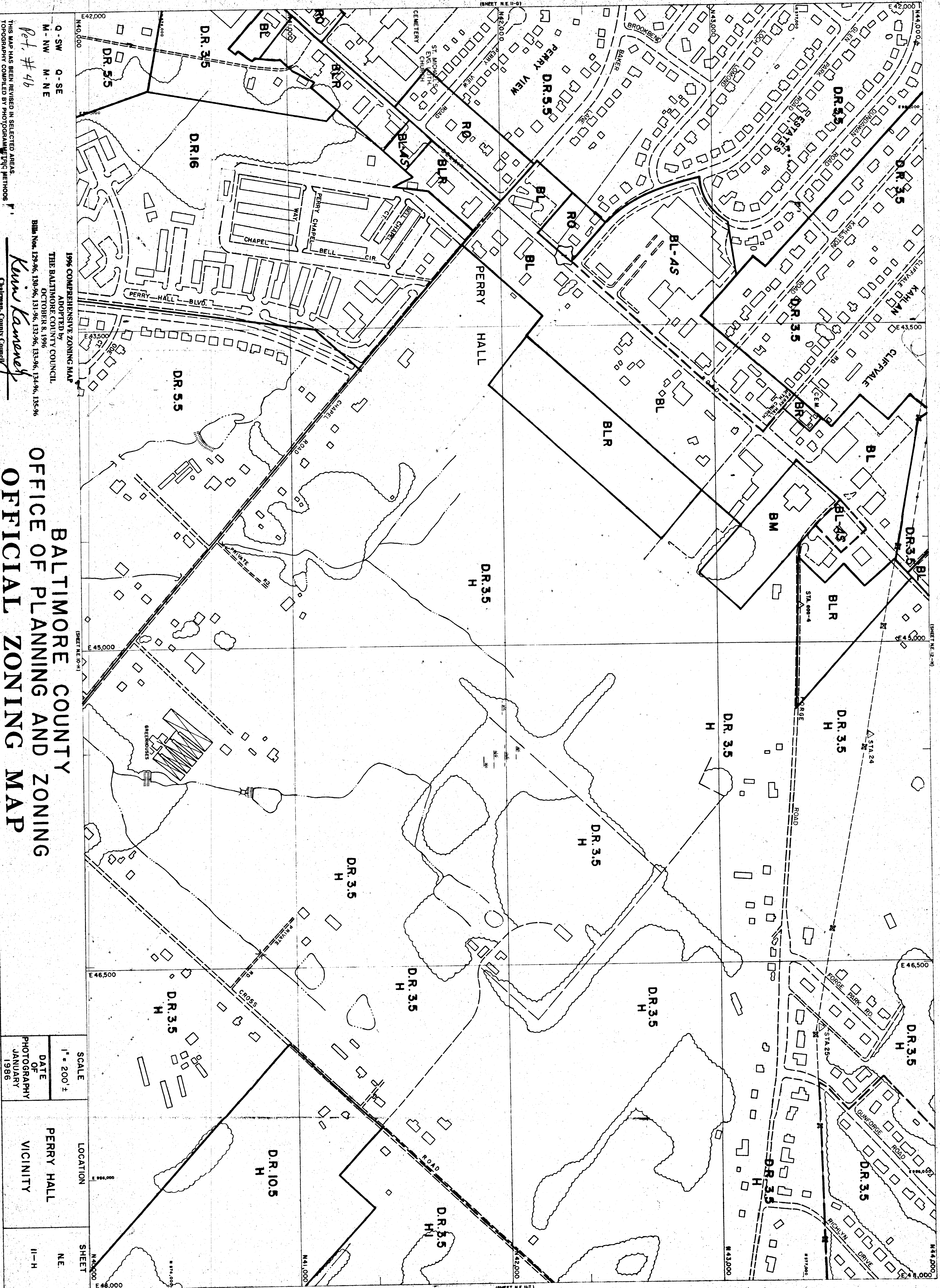
UNDOCUMENTED PLAN TO
ACCOMPANY A
RECLASSIFICATION PETITION
PERRY HALL METHODIST
CHURCH PROPERTY
BALTIMORE COUNTY
MARYLAND

DEED NORTH

DRAWN BY: KJW
CHECKED BY: KJW
DATE: 2/21/97
PROJECT NO: 97008
SHEET 1 OF 1

KENNETH J. WELLS, INC.
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Land Surveying & Site Planning



Q - SW Q - SE
M - NW M - NE
P-4, # 416

1996 COMPREHENSIVE ZONING MAP
ADOPTED BY
THE BALTIMORE COUNTY COUNCIL
OCTOBER 8, 1996
BILL NOS. 129-96, 130-96, 131-96, 132-96, 133-96, 134-96, 135-96
Kwinn Kennedy
Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200' ±	PERRY HALL	NE
DATE OF PHOTOGRAPHY JANUARY 1986	VICINITY	II-H

Q - SW
M - NW
Pet # 44

196 COMPREHENSIVE ZONING MAP
ADOPTED BY
THE BALTIMORE COUNTY COUNCIL
OCTOBER 8, 1996
Bills Nos. 129-96, 130-96, 131-96, 132-96, 133-96, 134-96, 135-96
Kevin Laney
Chairman, County Council

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

SCALE	1" = 200'
DATE OF PHOTOGRAPHY	JANUARY 1986
LOCATION	PERRY HALL
SHEET	N. E. 11-6

